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By: Darren Crisum

H.B. No. 206

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of barbering and cosmetology.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1601.002, Occupations Code, is amended  
to read as follows:

Sec. 1601.002. DEFINITION OF BARBERING. In this chapter,  
"barbering," "practicing barbering," or the "practice of  
barbering" means:

(1) performing or offering or attempting to perform  
for compensation or the promise of compensation any of the  
following services:

(A) treating a person's mustache or beard by  
arranging, beautifying, coloring, processing, shaving, styling, or  
trimming;

(B) treating a person's hair by:

(i) arranging, beautifying, bleaching,  
cleansing, coloring, curling, dressing, dyeing, processing,  
shampooing, shaping, singeing, straightening, styling, tinting, or  
waving;

(ii) providing a necessary service that is  
preparatory or ancillary to a service under Subparagraph (i),  
including bobbing, clipping, cutting, or trimming; or

(iii) cutting the person's hair as a  
separate and independent service for which a charge is directly or

1 indirectly made separately from a charge for any other service;  
2 (C) cleansing, stimulating, or massaging a  
3 person's scalp, face, neck, arms, or shoulders:  
4 (i) by hand or by using a device, apparatus,  
5 or appliance; and  
6 (ii) with or without the use of any cosmetic  
7 preparation, antiseptic, tonic, lotion, or cream;  
8 (D) beautifying a person's face, neck, arms, or  
9 shoulders using a cosmetic preparation, antiseptic, tonic, lotion,  
10 powder, oil, clay, cream, or appliance;  
11 (E) treating a person's nails by:  
12 (i) cutting, trimming, polishing, tinting,  
13 coloring, cleansing, manicuring, or pedicuring; or  
14 (ii) attaching false nails;  
15 (F) massaging, cleansing, treating, or  
16 beautifying a person's hands;  
17 (G) administering facial treatments;  
18 (H) weaving a person's hair by using any method  
19 to attach commercial hair to a person's hair or scalp;  
20 (I) shampooing or conditioning a person's hair;  
21 [~~or~~]  
22 (J) servicing in any manner listed in Paragraph  
23 (B) a person's wig, toupee, or artificial hairpiece on a person's  
24 head or on a block after the initial retail sale; or  
25 (K) braiding a person's hair, trimming hair  
26 extensions only as applicable to the braiding process, and  
27 attaching commercial hair only by braiding and without the use of

1 chemicals or adhesives;

2 (2) advertising or representing to the public in any  
3 manner that a person is a barber or is authorized to practice  
4 barbering; or

5 (3) advertising or representing to the public in any  
6 manner that a location or place of business is a barbershop,  
7 specialty shop, or barber school.

8 SECTION 2. Section 1601.253(b), Occupations Code, is  
9 amended to read as follows:

10 (b) The department shall issue a Class A barber certificate  
11 to an applicant who:

12 (1) complies with the application requirements of this  
13 chapter;

14 (2) passes the applicable examination [~~with an average~~  
15 ~~grade of at least 75 percent~~];

16 (3) pays the required fee; and

17 (4) possesses the other qualifications required by  
18 this chapter.

19 SECTION 3. Subchapter F, Chapter 1601, Occupations Code, is  
20 amended by adding Sections 1601.258 and 1601.259 to read as  
21 follows:

22 Sec. 1601.258. ELIGIBILITY FOR HAIR WEAVING SPECIALTY  
23 CERTIFICATE OF REGISTRATION. (a) A person holding a hair weaving  
24 specialty certificate of registration may perform only barbering as  
25 defined by Section 1601.002(1)(H).

26 (b) An applicant for a hair weaving specialty certificate of  
27 registration must:

1           (1) be at least 17 years of age; and  
2           (2) satisfy the requirements specified by the  
3 department, including training through a commission-approved  
4 training program.

5           (c) The department shall issue a hair weaving specialty  
6 certificate of registration to an applicant who:

7           (1) possesses the qualifications described by  
8 Subsection (b);

9           (2) pays the required registration fee; and

10           (3) has not committed an act that constitutes a ground  
11 for denial of the certificate.

12           Sec. 1601.259. ELIGIBILITY FOR HAIR BRAIDING SPECIALTY  
13 CERTIFICATE OF REGISTRATION. (a) A person holding a hair braiding  
14 specialty certificate of registration may perform only barbering as  
15 defined by Section 1601.002(1)(K).

16           (b) An applicant for a hair braiding specialty certificate  
17 must:

18           (1) be at least 17 years of age; and

19           (2) satisfy the requirements specified by the  
20 department, including training through a commission-approved  
21 training program.

22           (c) The department shall issue a hair braiding specialty  
23 certificate of registration to an applicant who:

24           (1) possesses the qualifications described by  
25 Subsection (b);

26           (2) pays the required registration fee; and

27           (3) has not committed an act that constitutes a ground



1 for denial of the certificate.

2 SECTION 4. Section 1601.303, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1601.303. ISSUANCE OF BARBERSHOP PERMIT. The  
5 department shall issue a barbershop permit to an applicant if:

- 6 (1) the applicant owns the barbershop; ~~[and]~~  
7 (2) the applicant verifies the application; and  
8 (3) the shop meets the minimum health standards for  
9 barbershops set by the commission and complies with all other  
10 commission rules.

11 SECTION 5. Sections 1601.304 and 1601.305, Occupations  
12 Code, are amended to read as follows:

13 Sec. 1601.304. ~~[MANICURIST]~~ SPECIALTY SHOP PERMIT. (a) A  
14 person who holds a ~~[manicurist]~~ specialty shop permit may maintain  
15 an establishment in which only barbering as defined by Section  
16 ~~[Sections]~~ 1601.002(1)(E), ~~[and]~~ (F), (H), or (K) is performed. ~~[A~~  
17 ~~manicurist specialty shop may be operated only under the direction~~  
18 ~~of a person who holds a manicurist license.]~~

19 (b) An applicant for a ~~[manicurist]~~ specialty shop permit  
20 must submit:

- 21 (1) an application on a department-approved form ~~[that~~  
22 ~~includes:~~

- 23 ~~[(A) the shop's address,~~  
24 ~~[(B) the legal description of the premises for~~  
25 ~~which the permit is sought, and~~  
26 ~~[(C) any other information required by the~~  
27 ~~department]; and~~

1 (2) the required inspection fee.

2 ~~[(c) As soon as practicable after receipt of the application~~  
3 ~~and fee, the department shall issue a temporary manicurist~~  
4 ~~specialty shop permit to the applicant. The applicant may operate~~  
5 ~~the applicant's shop under the temporary permit until a permanent~~  
6 ~~permit is issued.]~~

7 Sec. 1601.305. ISSUANCE OF [MANICURIST] SPECIALTY SHOP  
8 PERMIT. The department shall issue a [~~permanent manicurist~~]  
9 specialty shop permit to an applicant if:

10 (1) the applicant submits proof that the applicant  
11 satisfies the requirements established by the commission for a  
12 specialty shop [~~holds a manicurist license~~]; [~~and~~]

13 (2) the applicant pays the required inspection fee and  
14 permit fee;

15 (3) the applicant verifies the application and the  
16 application complies with commission rules; and

17 (4) the applicant has not committed an act that  
18 constitutes a ground for denial of a permit, certificate, or  
19 license under this chapter [~~the shop meets the minimum health~~  
20 ~~standards for manicurist specialty shops set by the commission, as~~  
21 ~~determined by a department inspection under Section 1603.103, and~~  
22 ~~any other requirements imposed by commission rule].~~

23 SECTION 6. Section 1601.353(a), Occupations Code, is  
24 amended to read as follows:

25 (a) The department may not approve an application for a  
26 permit for a barber school that provides training leading to  
27 issuance of a Class A barber certificate unless the school has:

1           (1) a [~~an adequate school site housed in a~~  
2 ~~substantial~~] building of permanent construction containing at  
3 least 2,800 square feet of floor space, divided into at least:

4           (A) a senior department;

5           (B) a junior department;

6           (C) a class theory room;

7           (D) a supply room;

8           (E) an office space; and

9           (F) [~~a dressing and cloak room; and~~

10           [~~(C) two sanitary, modern,~~] separate restrooms  
11 for male and female students[~~, each equipped with one commode and~~  
12 ~~one of which is also equipped with a urinal~~];

13           (2) a hard-surface floor-covering of tile or other  
14 suitable material;

15           (3) at least 20 modern barber chairs, including a  
16 cabinet and mirror for each chair;

17           (4) a sink for [~~lavatory behind~~] every two barber  
18 chairs;

19           (5) a liquid sterilizer for each barber chair;

20           (6) an adequate number of latherers, vibrators, and  
21 hair dryers for student use;

22           (7) adequate lighting for each room;

23           (8) at least 20 classroom chairs, a blackboard,  
24 anatomical charts of the head, neck, and face, and one barber chair  
25 in the class theory room;

26           (9) [~~a library with library facilities available to~~  
27 ~~students containing~~] at least one medical dictionary and a standard

1 work on human anatomy;

2 (10) adequate drinking fountain facilities, with at  
3 least one for each floor; and

4 (11) at least one fire extinguisher [~~adequate~~  
5 ~~toilet facilities for the students, and~~

6 [~~(12) adequate fire-fighting equipment~~].

7 SECTION 7. Section 1601.453, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1601.453. LOCATION OF PRACTICE. A person licensed by  
10 the department may practice barbering only at a location for which  
11 the department has issued a barbershop permit, specialty shop  
12 permit, or barber school permit under this chapter or a permit  
13 issued under Chapter 1603.

14 SECTION 8. Section 1602.303(b), Occupations Code, is  
15 amended to read as follows:

16 (b) An application for a private beauty culture school  
17 license must be accompanied by the required license fee and  
18 inspection fee and:

19 (1) be on a form prescribed by the department;

20 (2) be verified by the applicant; and

21 (3) [~~contain a detailed floor plan of the school~~  
22 ~~building divided into two separate areas, one area for instruction~~  
23 ~~in theory and one area for clinic work, and~~

24 [~~(4)~~] contain a statement that the building:

25 (A) [~~is fireproof,~~

26 [~~(B)~~] is of permanent construction and is divided  
27 into at least two separate areas:

1                    (i) one area for instruction in theory; and  
2                    (ii) one area for clinic work;  
3                    (B) [~~C~~] contains a minimum of 3,500 square feet  
4 of floor space;  
5                    (C) [~~D~~] has separate restrooms for male and  
6 female students; and  
7                    (D) [~~E~~] contains, or will contain before  
8 classes begin, the equipment established by commission rule as  
9 sufficient to properly instruct a minimum of 50 students.

10            SECTION 9. Section 1603.103, Occupations Code, is amended  
11 to read as follows:

12            Sec. 1603.103. INSPECTION OF SCHOOLS[, ~~SHOPS, AND~~  
13 ~~FACILITIES~~] BEFORE OPERATION. (a) Until the department  
14 determines, by inspection, that the person has established the  
15 school[, ~~shop, or facility~~] in compliance with this chapter,  
16 Chapter 1601, or Chapter 1602, a person may not operate a school[,  
17 ~~shop, or other facility~~] licensed or permitted under this chapter,  
18 Chapter 1601, or Chapter 1602.

19            (b) A school[, ~~shop, or other facility~~] that is not approved  
20 by the department on initial inspection may be reinspected.

21            (c) The department may charge the school[, ~~shop, or other~~  
22 ~~facility shall pay~~] a fee for each inspection. The commission shall  
23 by rule set the amount of the fee.

24            SECTION 10. Sections 1603.104(b) and (e), Occupations Code,  
25 are amended to read as follows:

26            (b) At least once every two years, the department shall  
27 inspect each [~~school~~] shop[, ] or other facility that holds a

1    license, certificate, or permit in which the practice of barbering  
2    or cosmetology is performed under this chapter, Chapter 1601, or  
3    Chapter 1602, and at least twice per year, the department shall  
4    inspect each school in which barbering or cosmetology is taught  
5    under this chapter, Chapter 1601, or Chapter 1602.

6            (e) The department may charge the school, shop, or other  
7    facility ~~[shall pay]~~ a fee for each inspection performed under this  
8    section ~~[Subsection (c)]~~. The commission shall by rule set the  
9    amount of the fee.

10           SECTION 11. Subchapter C, Chapter 1603, Occupations Code,  
11    is amended by adding Section 1603.1045 to read as follows:

12           Sec. 1603.1045. CONTRACT TO PERFORM INSPECTIONS. The  
13    department may contract with a person to perform for the department  
14    inspections of a school, shop, or other facility under this  
15    chapter, Chapter 1601, or Chapter 1602.

16           SECTION 12. Subchapter E, Chapter 1603, Occupations Code,  
17    is amended by adding Section 1603.205 to read as follows:

18           Sec. 1603.205. DUAL BARBER AND BEAUTY SHOP LICENSE. (a) A  
19    person holding a dual barber and beauty shop license may own,  
20    operate, or manage a shop in which any practice of barbering defined  
21    by Section 1601.002(1) or cosmetology defined by Section  
22    1602.002(a) is performed.

23           (b) An applicant for a dual barber and beauty shop license  
24    must submit:

25           (1) an application on a department-approved form that  
26    is verified by the applicant;

27           (2) proof that the applicant meets the applicable

1 requirements under Chapters 1601 and 1602 for obtaining a  
2 barbershop permit and a beauty shop license; and

3 (3) the required license fee.

4 (c) The department shall issue a dual barber and beauty shop  
5 license to an applicant that:

6 (1) meets the requirements under this chapter and  
7 Chapters 1601 and 1602;

8 (2) complies with commission rules; and

9 (3) pays the required fees.

10 (d) The holder of a dual barber and beauty shop license must  
11 comply with this chapter, Chapters 1601 and 1602, and commission  
12 rules related to barbering and cosmetology.

13 SECTION 13. As soon as practicable after the effective date  
14 of this Act, the Texas Commission of Licensing and Regulation shall  
15 adopt the rules necessary to implement Sections 1601.258, 1601.259,  
16 and 1603.205, Occupations Code, as added by this Act.

17 SECTION 14. The changes in law made by this Act apply only  
18 to an application for the issuance or renewal of a license, permit,  
19 or certificate that is filed with the Texas Department of Licensing  
20 and Regulation on or after the effective date of this Act. An  
21 application for the issuance or renewal of a license, permit, or  
22 certificate that is filed before the effective date of this Act is  
23 governed by the law in effect on the date the application was filed,  
24 and the former law is continued in effect for that purpose.

25 SECTION 15. Notwithstanding Section 1603.205, Occupations  
26 Code, as added by this Act, the Texas Department of Licensing and  
27 Regulation may not issue a license under that section before May 1,

1 2008.

2       SECTION 16. (a) Except as provided by Subsection (b) of  
3 this section, this Act takes effect immediately if it receives a  
4 vote of two-thirds of all the members elected to each house, as  
5 provided by Section 39, Article III, Texas Constitution. If this  
6 Act does not receive the vote necessary for immediate effect, this  
7 Act takes effect September 1, 2007.

8       (b) Section 1603.205, Occupations Code, as added by this  
9 Act, takes effect May 1, 2008.



# HOUSE COMMITTEE REPORT

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HOUSE OF REPRESENTATIVES

1<sup>st</sup> Printing

By: Chisum, Deshotel, Hopson

H.B. No. 2106

Substitute the following for H.B. No. 2106:

By: Thompson

C.S.H.B. No. 2106

## A BILL TO BE ENTITLED

### AN ACT

relating to the regulation of barbering and cosmetology.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1601.002, Occupations Code, is amended to read as follows:

Sec. 1601.002. DEFINITION OF BARBERING. In this chapter, "barbering," "practicing barbering," or the "practice of barbering" means:

(1) performing or offering or attempting to perform for compensation or the promise of compensation any of the following services:

(A) treating a person's mustache or beard by arranging, beautifying, coloring, processing, shaving, styling, or trimming;

(B) treating a person's hair by:

(i) arranging, beautifying, bleaching, cleansing, coloring, curling, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, tinting, or waving;

(ii) providing a necessary service that is preparatory or ancillary to a service under Subparagraph (i), including bobbing, clipping, cutting, or trimming; or

(iii) cutting the person's hair as a separate and independent service for which a charge is directly or

1 indirectly made separately from a charge for any other service;

2 (C) cleansing, stimulating, or massaging a  
3 person's scalp, face, neck, arms, or shoulders:

4 (i) by hand or by using a device, apparatus,  
5 or appliance; and

6 (ii) with or without the use of any cosmetic  
7 preparation, antiseptic, tonic, lotion, or cream;

8 (D) beautifying a person's face, neck, arms, or  
9 shoulders using a cosmetic preparation, antiseptic, tonic, lotion,  
10 powder, oil, clay, cream, or appliance;

11 (E) treating a person's nails by:

12 (i) cutting, trimming, polishing, tinting,  
13 coloring, cleansing, manicuring, or pedicuring; or

14 (ii) attaching false nails;

15 (F) massaging, cleansing, treating, or  
16 beautifying a person's hands;

17 (G) administering facial treatments;

18 (H) weaving a person's hair by using any method  
19 to attach commercial hair to a person's hair or scalp;

20 (I) shampooing or conditioning a person's hair;

21 [~~or~~]

22 (J) servicing in any manner listed in Paragraph  
23 (B) a person's wig, toupee, or artificial hairpiece on a person's  
24 head or on a block after the initial retail sale; or

25 (K) braiding a person's hair, trimming hair  
26 extensions only as applicable to the braiding process, and  
27 attaching commercial hair only by braiding and without the use of

1 chemicals or adhesives;

2 (2) advertising or representing to the public in any  
3 manner that a person is a barber or is authorized to practice  
4 barbering; or

5 (3) advertising or representing to the public in any  
6 manner that a location or place of business is a barbershop,  
7 specialty shop, or barber school.

8 SECTION 2. Section 1601.253(b), Occupations Code, is  
9 amended to read as follows:

10 (b) The department shall issue a Class A barber certificate  
11 to an applicant who:

12 (1) complies with the application requirements of this  
13 chapter;

14 (2) passes the applicable examination [~~with an average~~  
15 ~~grade of at least 75 percent~~];

16 (3) pays the required fee; and

17 (4) possesses the other qualifications required by  
18 this chapter.

19 SECTION 3. Subchapter F, Chapter 1601, Occupations Code, is  
20 amended by adding Sections 1601.258 and 1601.259 to read as  
21 follows:

22 Sec. 1601.258. ELIGIBILITY FOR HAIR WEAVING SPECIALTY  
23 CERTIFICATE OF REGISTRATION. (a) A person holding a hair weaving  
24 specialty certificate of registration may perform only barbering as  
25 defined by Section 1601.002(1)(H).

26 (b) An applicant for a hair weaving specialty certificate of  
27 registration must:

1           (1) be at least 17 years of age; and

2           (2) satisfy the requirements specified by the  
3 department, including training through a commission-approved  
4 training program.

5           (c) The department shall issue a hair weaving specialty  
6 certificate of registration to an applicant who:

7           (1) possesses the qualifications described by  
8 Subsection (b);

9           (2) pays the required registration fee; and

10           (3) has not committed an act that constitutes a ground  
11 for denial of the certificate.

12           Sec. 1601.259. ELIGIBILITY FOR HAIR BRAIDING SPECIALTY  
13 CERTIFICATE OF REGISTRATION. (a) A person holding a hair braiding  
14 specialty certificate of registration may perform only barbering as  
15 defined by Section 1601.002(1)(K).

16           (b) An applicant for a hair braiding specialty certificate  
17 must:

18           (1) be at least 17 years of age; and

19           (2) satisfy the requirements specified by the  
20 department, including training through a commission-approved  
21 training program.

22           (c) The department shall issue a hair braiding specialty  
23 certificate of registration to an applicant who:

24           (1) possesses the qualifications described by  
25 Subsection (b);

26           (2) pays the required registration fee; and

27           (3) has not committed an act that constitutes a ground

1 for denial of the certificate.

2 SECTION 4. Section 1601.303, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1601.303. ISSUANCE OF BARBERSHOP PERMIT. The  
5 department shall issue a barbershop permit to an applicant if:

- 6 (1) the applicant owns the barbershop; ~~and~~  
7 (2) the applicant verifies the application; and  
8 (3) the shop meets the minimum health standards for  
9 barbershops set by the commission and complies with all other  
10 commission rules.

11 SECTION 5. Sections 1601.304 and 1601.305, Occupations  
12 Code, are amended to read as follows:

13 Sec. 1601.304. ~~[MANICURIST]~~ SPECIALTY SHOP PERMIT. (a) A  
14 person who holds a ~~[manicurist]~~ specialty shop permit may maintain  
15 an establishment in which only barbering as defined by Section  
16 [Sections] 1601.002(1)(E), ~~and~~ (F), (H), or (K) is performed. [A  
17 manicurist specialty shop may be operated only under the direction  
18 of a person who holds a manicurist license.]

19 (b) An applicant for a ~~[manicurist]~~ specialty shop permit  
20 must submit:

- 21 (1) an application on a department-approved form ~~[that~~  
22 ~~includes:~~

23 ~~[(A) the shop's address,~~  
24 ~~[(B) the legal description of the premises for~~  
25 ~~which the permit is sought, and~~

26 ~~[(C) any other information required by the~~  
27 ~~department]; and~~

1 (2) the required inspection fee.

2 [~~(c) As soon as practicable after receipt of the application~~  
3 ~~and fee, the department shall issue a temporary manicurist~~  
4 ~~specialty shop permit to the applicant. The applicant may operate~~  
5 ~~the applicant's shop under the temporary permit until a permanent~~  
6 ~~permit is issued.]~~

7 Sec. 1601.305. ISSUANCE OF [MANICURIST] SPECIALTY SHOP  
8 PERMIT. The department shall issue a [~~permanent manicurist~~]  
9 specialty shop permit to an applicant if:

10 (1) the applicant submits proof that the applicant  
11 satisfies the requirements established by the commission for a  
12 specialty shop [~~holds a manicurist license~~]; [~~and~~]

13 (2) the applicant pays the required inspection fee and  
14 permit fee;

15 (3) the applicant verifies the application and the  
16 application complies with commission rules; and

17 (4) the applicant has not committed an act that  
18 constitutes a ground for denial of a permit, certificate, or  
19 license under this chapter [~~the shop meets the minimum health~~  
20 ~~standards for manicurist specialty shops set by the commission, as~~  
21 ~~determined by a department inspection under Section 1603.103, and~~  
22 ~~any other requirements imposed by commission rule].~~

23 SECTION 6. Section 1601.353(a), Occupations Code, is  
24 amended to read as follows:

25 (a) The department may not approve an application for a  
26 permit for a barber school that provides training leading to  
27 issuance of a Class A barber certificate unless the school has:

(1) a ~~[an adequate school site housed in a substantial]~~ building of permanent construction containing at least 2,800 square feet of floor space, divided into at least:

(A) a senior department;

(B) a junior department;

(C) a class theory room;

(D) a supply room;

(E) an office space; and

(F) ~~[a dressing and cloak room, and~~

~~[(C) two sanitary, modern,] separate restrooms for male and female students[, each equipped with one commode and one of which is also equipped with a urinal];~~

(2) a hard-surface floor-covering of tile or other suitable material;

(3) at least 20 modern barber chairs, including a cabinet and mirror for each chair;

(4) a sink for ~~[lavatory behind]~~ every two barber chairs;

(5) a liquid sterilizer for each barber chair;

(6) an adequate number of latherers, vibrators, and hair dryers for student use;

(7) adequate lighting for each room;

(8) at least 20 classroom chairs, a blackboard, anatomical charts of the head, neck, and face, and one barber chair in the class theory room;

(9) ~~[a library with library facilities available to students containing]~~ at least one medical dictionary and a standard

1 work on human anatomy;

2 (10) adequate drinking fountain facilities, with at  
3 least one for each floor; and

4 (11) at least one fire extinguisher [~~adequate~~  
5 ~~toilet facilities for the students, and~~

6 ~~[(12) adequate fire-fighting equipment]~~.

7 SECTION 7. Section 1601.453, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1601.453. LOCATION OF PRACTICE. A person licensed by  
10 the department may practice barbering only at a location for which  
11 the department has issued a barbershop permit, specialty shop  
12 permit, or barber school permit under this chapter or a permit  
13 issued under Chapter 1603.

14 SECTION 8. Section 1602.256, Occupations Code, is amended  
15 to read as follows:

16 Sec. 1602.256. ELIGIBILITY FOR A MANICURIST SPECIALTY  
17 LICENSE. (a) A person holding a manicurist specialty license may  
18 perform only the practice of cosmetology defined in Section  
19 1602.002(a)(10) or (11) [~~1602.002(9) or (10)~~].

20 (b) To be eligible for a manicurist specialty license, an  
21 applicant must:

22 (1) be at least 17 years of age;

23 (2) have obtained a high school diploma or the  
24 equivalent of a high school diploma or have passed a valid  
25 examination administered by a certified testing agency that  
26 measures the person's ability to benefit from training; and

27 (3) have completed 600 hours of instruction in



1 manicuring through a commission-approved training program.

2 SECTION 9. Section 1602.257(a), Occupations Code, is  
3 amended to read as follows:

4 (a) A person holding a facialist specialty license may  
5 perform only the practice of cosmetology defined in Sections  
6 1602.002(a)(6) through (9) [~~Section 1602.002(7)~~].

7 SECTION 10. Section 1602.258, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1602.258. ELIGIBILITY FOR A SPECIALTY  
10 CERTIFICATE. (a) A person holding a specialty certificate may  
11 perform only the practice of cosmetology defined in Sections  
12 1602.002(a)(2) through (4) [~~Section 1602.002(2), (3), (4), or (7)~~].

13 (b) To be eligible for a specialty certificate, an applicant  
14 must:

15 (1) be at least 17 years of age; and

16 (2) [~~have obtained a high school diploma or the~~  
17 ~~equivalent of a high school diploma or have passed a valid~~  
18 ~~examination administered by a certified testing agency that~~  
19 ~~measures the person's ability to benefit from training, and~~

20 [(3)] have the necessary requisites as determined by  
21 the department in the particular specialty for which certification  
22 is sought, including training through a commission-approved  
23 training program.

24 SECTION 11. Section 1602.262(a), Occupations Code, is  
25 amended to read as follows:

26 (a) An applicant for an operator license, instructor  
27 license, manicurist specialty license, or facialist specialty

license is entitled to the license if the applicant:

- (1) meets the applicable eligibility requirements;
- (2) passes the applicable examination;
- (3) pays the required fee; and
- (4) has not committed an act that constitutes a ground for denial of the license.

SECTION 12. Section 1602.303(b), Occupations Code, is amended to read as follows:

(b) An application for a private beauty culture school license must be accompanied by the required license fee and inspection fee and:

- (1) be on a form prescribed by the department;
- (2) be verified by the applicant; and
- (3) ~~[contain a detailed floor plan of the school building divided into two separate areas, one area for instruction in theory and one area for clinic work, and~~

~~[(4)]~~ contain a statement that the building:

- (A) ~~[is fireproof,~~
- ~~[(B)]~~ is of permanent construction and is divided into at least two separate areas:

- (i) one area for instruction in theory; and
- (ii) one area for clinic work;
- (B) ~~[(C)]~~ contains a minimum of 3,500 square feet of floor space;

(C) ~~[(D)]~~ has separate restrooms for male and female students; and

(D) ~~[(E)]~~ contains, or will contain before

1 classes begin, the equipment established by commission rule as  
2 sufficient to properly instruct a minimum of 50 students.

3 SECTION 13. Section 1602.354, Occupations Code, is amended  
4 to read as follows:

5 Sec. 1602.354. CONTINUING EDUCATION. (a) The commission  
6 will by rule recognize, prepare, or administer continuing education  
7 programs for the practice of cosmetology. Participation in the  
8 programs is mandatory for all license renewals.

9 (b) The commission may only require a license holder to  
10 complete continuing education of not more than four hours in health  
11 and safety courses if the license holder:

12 (1) is at least 65 years of age; and

13 (2) has held a cosmetology license for at least 15  
14 years.

15 SECTION 14. Section 1602.403(a), Occupations Code, is  
16 amended to read as follows:

17 (a) A private beauty culture school may not employ:

18 (1) a person holding an operator license, manicurist  
19 specialty license, or specialty certificate solely to perform the  
20 practices of cosmetology for which the person is licensed or  
21 certified; or

22 (2) a person holding an instructor license to perform  
23 any act or practice of cosmetology.

24 SECTION 15. Subchapter J, Chapter 1602, Occupations Code,  
25 is amended by adding Section 1602.466 to read as follows:

26 Sec. 1602.466. NOTIFICATION OF FINAL TUITION PAYMENT. Each  
27 beauty culture school shall notify the department not later than

1 the fifth day after the date the school or program receives final  
2 payment of all tuition that a student owes to the school.

3 SECTION 16. Section 1603.103, Occupations Code, is amended  
4 to read as follows:

5 Sec. 1603.103. INSPECTION OF SCHOOLS[~~, SHOPS, AND~~  
6 ~~FACILITIES~~] BEFORE OPERATION. (a) Until the department  
7 determines, by inspection, that the person has established the  
8 school[~~, shop, or facility~~] in compliance with this chapter,  
9 Chapter 1601, or Chapter 1602, a person may not operate a school[~~,~~  
10 ~~shop, or other facility~~] licensed or permitted under this chapter,  
11 Chapter 1601, or Chapter 1602.

12 (b) A school[~~, shop, or other facility~~] that is not approved  
13 by the department on initial inspection may be reinspected.

14 (c) The department may charge the school[~~, shop, or other~~  
15 ~~facility shall pay]~~ a fee for each inspection. The commission shall  
16 by rule set the amount of the fee.

17 SECTION 17. Sections 1603.104(b) and (e), Occupations Code,  
18 are amended to read as follows:

19 (b) At least once every two years, the department shall  
20 inspect each [school~~,~~] shop[~~,~~] or other facility that holds a  
21 license, certificate, or permit in which the practice of barbering  
22 or cosmetology is performed under this chapter, Chapter 1601, or  
23 Chapter 1602, and at least twice per year, the department shall  
24 inspect each school in which barbering or cosmetology is taught  
25 under this chapter, Chapter 1601, or Chapter 1602.

26 (e) The department may charge the school, shop, or other  
27 facility [shall pay] a fee for each inspection performed under this

1 section [~~Subsection (c)~~]. The commission shall by rule set the  
2 amount of the fee.

3 SECTION 18. Subchapter C, Chapter 1603, Occupations Code,  
4 is amended by adding Section 1603.1045 to read as follows:

5 Sec. 1603.1045. CONTRACT TO PERFORM INSPECTIONS. The  
6 department may contract with a person to perform for the department  
7 inspections of a school, shop, or other facility under this  
8 chapter, Chapter 1601, or Chapter 1602.

9 SECTION 19. Subchapter E, Chapter 1603, Occupations Code,  
10 is amended by adding Section 1603.205 to read as follows:

11 Sec. 1603.205. DUAL BARBER AND BEAUTY SHOP LICENSE. (a) A  
12 person holding a dual barber and beauty shop license may own,  
13 operate, or manage a shop in which any practice of barbering defined  
14 by Section 1601.002(1) or cosmetology defined by Section  
15 1602.002(a) is performed.

16 (b) An applicant for a dual barber and beauty shop license  
17 must submit:

18 (1) an application on a department-approved form that  
19 is verified by the applicant;

20 (2) proof that the applicant meets the applicable  
21 requirements under Chapters 1601 and 1602 for obtaining a  
22 barbershop permit and a beauty shop license; and

23 (3) the required license fee.

24 (c) The department shall issue a dual barber and beauty shop  
25 license to an applicant that:

26 (1) meets the requirements under this chapter and  
27 Chapters 1601 and 1602;

1           (2) complies with commission rules; and

2           (3) pays the required fees.

3           (d) The holder of a dual barber and beauty shop license must  
4 comply with this chapter, Chapters 1601 and 1602, and commission  
5 rules related to barbering and cosmetology.

6           SECTION 20. Subchapter F, Chapter 1603, Occupations Code,  
7 is amended by adding Section 1603.258 to read as follows:

8           Sec. 1603.258. ELIGIBILITY FOR COSMETOLOGIST EXAMINATION.

9 An applicant is not eligible to take an examination for a license or  
10 certificate under Chapter 1602 unless the department has received  
11 notice from each beauty culture school from which the applicant  
12 accrued hours that the applicant has paid all tuition owed to the  
13 school.

14          SECTION 21. Section 1603.352, Occupations Code, is amended  
15 to read as follows:

16          Sec. 1603.352. STERILIZATION ~~[SANITATION]~~ REQUIREMENTS FOR  
17 CERTAIN SERVICES. (a) A person who holds a license, certificate,  
18 or permit issued under this chapter, Chapter 1601, or Chapter 1602  
19 and who performs a barbering service described by Section  
20 1601.002(1)(E) or (F) or a cosmetology service described by Section  
21 1602.002(a)(10) or (11) ~~[1602.002(10) or (11)]~~.

22           ~~[(1)]~~ shall, before performing the service, clean,  
23 disinfect, and sterilize with an autoclave or a dry heat or  
24 ultraviolet sterilizer, in accordance with the sterilizer  
25 manufacturer's instructions, each metal ~~[nondisposable]~~  
26 instrument, including metal nail clippers, cuticle pushers,  
27 cuticle nippers, and other metal instruments, used to perform the

1 service[, and

2 ~~[(2) may use a disposable supply or instrument only if~~  
3 ~~that supply or instrument is purchased at the location where the~~  
4 ~~service is performed or provided by the person on whom the service~~  
5 ~~is performed].~~

6 (b) The owner or manager of a barber shop, barber school,  
7 beauty shop, specialty shop, ~~[or]~~ beauty culture school, or other  
8 facility licensed under this chapter, Chapter 1601, or Chapter  
9 1602, is responsible for providing an autoclave or a dry heat or  
10 ultraviolet sterilizer for use in the shop or school as required by  
11 Subsection (a). An autoclave or a dry heat or ultraviolet  
12 sterilizer used as required by Subsection (a) must be[+

13 ~~[(1) registered and]~~ listed with the United States  
14 ~~[federal]~~ Food and Drug Administration[, and

15 ~~[(2) used in accordance with the manufacturer's~~  
16 ~~instructions].~~

17 (c) Each sterilized instrument must be stored in accordance  
18 with the manufacturer's instructions.

19 (d) This section does not apply to:

20 (1) single-use instruments; or

21 (2) nonmetal nail files, buffer blocks, pumice stones,  
22 nail brushes, or other similar instruments.

23 (e) The commission may adopt rules to administer this  
24 section.

25 SECTION 22. Subchapter J, Chapter 1603, Occupations Code,  
26 is amended by adding Sections 1603.455 and 1603.456 to read as  
27 follows:

1       Sec. 1603.455. EMERGENCY ORDERS. (a) The executive  
2 director may issue an emergency order to suspend or revoke a license  
3 or permit issued, or to cease the operation of an unsafe facility  
4 regulated, by the department under this title if the executive  
5 director determines that an emergency exists requiring immediate  
6 action to protect the public health and safety.

7       (b) The executive director may issue the emergency order  
8 with or without notice and hearing as the executive director  
9 considers practicable under the circumstances.

10       (c) If an emergency order is issued under this section  
11 without a hearing, the executive director, not later than the 10th  
12 day after the date the emergency order was issued, shall set the  
13 time and place for a hearing conducted by the State Office of  
14 Administrative Hearings to affirm, modify, or set aside the  
15 emergency order. The executive director shall set the hearing for a  
16 date not later than the 30th day after the date the time and place  
17 for the hearing are set. The hearing examiner shall affirm the  
18 order to the extent that reasonable cause existed to issue the  
19 order.

20       (d) The commission by rule may prescribe procedures for the  
21 issuance and appeal of an emergency order under this section,  
22 including a rule to allow the commission to affirm, modify, or set  
23 aside a decision by the State Office of Administrative Hearings  
24 under Subsection (c).

25       (e) A proceeding under this section is a contested case  
26 under Chapter 2001, Government Code.

27       Sec. 1603.456. CEASE AND DESIST ORDERS. The executive



1 director may issue a cease and desist order, after notice and  
2 opportunity for hearing, if the executive director determines that  
3 the order is necessary to prevent a violation of:

4 (1) this chapter, Chapter 1601, or Chapter 1602; or

5 (2) a rule adopted by the commission.

6 SECTION 23. Sections 1601.506, 1602.266(c), and 1602.408,  
7 Occupations Code, are repealed.

8 SECTION 24. (a) The Texas Department of Licensing and  
9 Regulation shall issue a hair braiding specialty certificate of  
10 registration under Section 1601.259, Occupations Code, as added by  
11 this Act, to an applicant qualified under this section who:

12 (1) applies for a certificate of registration under  
13 this section not later than October 1, 2007;

14 (2) has the experience required by this section; and

15 (3) pays the application fee.

16 (b) An applicant for a hair braiding specialty certificate  
17 of registration under this section is required to have practiced  
18 hair braiding in this state for at least 10 years before the  
19 regulation of hair braiding by Chapter 267, Acts of the 75th  
20 Legislature, Regular Session, 1997.

21 (c) This section expires on October 31, 2007.

22 SECTION 25. Not later than January 1, 2008, the Texas  
23 Commission of Licensing and Regulation shall adopt rules necessary  
24 to implement the changes in law made by this Act, including rules to  
25 administer:

26 (1) Sections 1601.258 and 1601.259, Occupations Code,  
27 as added by this Act, related to eligibility for hair weaving and

1 hair braiding specialty certificates;

2 (2) Section 1602.354, Occupations Code, as amended by  
3 this Act, related to continuing education and renewal requirements;

4 (3) Sections 1602.466 and 1603.258, Occupations Code,  
5 as added by this Act, related to the requirement that an applicant  
6 for a cosmetologist examination may not owe tuition to a beauty  
7 culture school; and

8 (4) Section 1603.205, Occupations Code, as added by  
9 this Act, related to dual barber and beauty shop licenses.

10 SECTION 26. The changes in law made by this Act apply only  
11 to an application for the issuance or renewal of a license, permit,  
12 or certificate that is filed with the Texas Department of Licensing  
13 and Regulation on or after the effective date of this Act. An  
14 application for the issuance or renewal of a license, permit, or  
15 certificate that is filed before the effective date of this Act is  
16 governed by the law in effect on the date the application was filed,  
17 and the former law is continued in effect for that purpose.

18 SECTION 27. Notwithstanding Section 1603.205, Occupations  
19 Code, as added by this Act, the Texas Department of Licensing and  
20 Regulation may not issue a license under that section before May 1,  
21 2008.

22 SECTION 28. (a) Except as provided by Subsection (b) of  
23 this section, this Act takes effect immediately if it receives a  
24 vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2007.

C.S.H.B. No. 2106

1       (b) Sections 1602.466 and 1603.258, Occupations Code, as  
2       added by this Act, take effect April 1, 2008.

# COMMITTEE REPORT

The Honorable Tom Craddick  
Speaker of the House of Representatives

March 27, 2007  
(date)

Sir:

We, your **COMMITTEE ON LICENSING AND ADMINISTRATIVE PROCEDURES**

to whom was referred HB 2106 have had the same under consideration and beg to report back with the recommendation that it

- ☐ do pass, without amendment.  
☐ do pass, with amendment(s).  
☒ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.  
☒ yes ☐ no A fiscal note was requested.  
☐ yes ☒ no A criminal justice policy impact statement was requested.  
☐ yes ☒ no An equalized educational funding impact statement was requested.  
☐ yes ☒ no An actuarial analysis was requested.  
☐ yes ☒ no A water development policy impact statement was requested.  
☐ yes ☒ no A tax equity note was requested.  
☐ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor \_\_\_\_\_

Joint Sponsors: \_\_\_\_\_

Co-Sponsors: \_\_\_\_\_

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Flores, Chair	X			
Geren, Vice-chair	X			
Isett, CBO				X
Goolsby				X
Hamilton	X			
Jones, D.	X			
Miles				X
Thompson	X			
Quintanilla	X			

Total

6 aye  
0 nay  
0 present, not voting  
3 absent

*Krw*  
CHAIR

## **BILL ANALYSIS**

C.S.H.B. 2106

By: Chisum

Licensing & Administrative Procedures  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Barbers and cosmetologists are used by the public every day for haircuts, manicures, pedicures, and other beauty needs. The licensing and regulation of Texas' more than 13,000 barbers and more than 150,000 cosmetologists is performed by the Texas Department of Licensing and Regulation (TDLR). The Board of Barber Examiners and the Texas Cosmetology Commission were both dissolved by the 79<sup>th</sup> Legislature, when the functions performed by those agencies were transferred to TDLR. As the state's umbrella licensing agency, TDLR's practices and those of the former agencies differ in certain areas.

CSHB 2106 makes changes to Chapters 1601, 1602 and 1603 of the Occupations Code in an effort to make statutory clean up changes, streamline the processes for practicing and learning barbering and cosmetology, owning and operating barbershops and salons, and help ensure that the public is protected when visiting barbershops and cosmetology salons throughout the state.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTIONS 21, 22, and 25 of this bill.

### **ANALYSIS**

CSHB 2106 amends the definition of "barbering," "practicing barbering," or "practice of barbering" by adding clarifying language to the description of weaving and adding a description of braiding; removes the specified passing score for the barber examination; adds a hair weaving specialty certificate and a hair braiding specialty certificate as part of the licensing of barbering; and requires that barbershop license applications are verified. Language is amended to allow weaving and braiding establishments to obtain a specialty shop permit and to simplify the application and licensing procedure for specialty shops. Archaic language in the barber school application requirements is removed. CSHB 2106 clarifies that a barber may practice in a dual shop licensed under Chapter 1603, Occupations Code.

CSHB 2106 corrects legal citations for manicurist and facialist services and for specialty certificate services; amends the eligibility requirements for a specialty certificate by removing the requirement that an applicant have obtained a high school diploma or the equivalent or passed an examination that measures the person's ability to benefit from training; and clarifies terminology for a manicurist specialty license. Archaic language is removed from the cosmetology school application requirements. CSHB 2106 limits continuing education for licensees who are at least 65 years of age and have held a license for at least 15 years. The licensee would need no more than four hours of health and safety to renew the license. CSHB 2106 requires a cosmetology school to notify TDLR not later than the 5<sup>th</sup> day after final payment of a student's tuition to the school.

CSHB 2106 removes a requirement for TDLR to inspect barber and cosmetology shops prior to opening for business; increases the frequency of inspections of barber and cosmetology schools from once to twice per year; and authorizes TDLR to charge a fee for inspections. CSHB 2106 authorizes TDLR to contract with a person to perform inspections; creates a dual shop license for shops offering both barbering and cosmetology services; prevents a cosmetology student from taking an examination unless TDLR has received notice that the student has paid all tuition owed to cosmetology schools; adds dry heat and ultraviolet as options for sterilizing metal instruments used in manicuring and pedicuring and lists instruments not required to be stored accordance

C.S.H.B. 2106 80(R)

with the manufacturer's instructions' and authorizes the executive director to issue an emergency order to suspend or revoke a license or to cease operation of an unsafe facility if an emergency requires immediate action. A hearing is required to be held after the order is issued. CSHB 2106 authorizes the executive director to issue a cease and desist order, after notice and an opportunity for hearing.

CSHB 2106 repeals an archaic student permit fee provision and duplicative provisions related to sterilization of manicure and pedicure instruments. CSHB 2106 provides for issuance of a barber hair braider certificate to a person who applies no later than October 1, 2007 and has at least ten years of experience and expires this section on October 31, 2007. CSHB 2106 requires TDLR to adopt rules by January 1, 2008 to implement certain sections of the bill. The provisions of the bill apply to a license or renewal application filed on or after the effective date of this Act. TDLR may not issue a dual shop license before May 1, 2008.

#### **EFFECTIVE DATE**

Immediately, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007, except for Sections 1602.466 and 1603.258, Occupations Code, which take effect April 1, 2008.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The committee substitute consolidates provisions of House Bills 1030, 1050, 1118, 1280, 1566, and 2903, related to barbering and cosmetology, into H.B. 2106.

The committee substitute adds a number of provisions that were not in the introduced version. These new provisions are derived primarily from the other bills that are being consolidated. In Chapter 1602, Occupations Code, the substitute corrects legal citations for manicurist and facialist services and for specialty certificate services. The substitute amends the eligibility requirements for a specialty certificate by removing the requirement that an applicant have obtained a high school diploma or the equivalent or passed an examination that measures the person's ability to benefit from training. The substitute clarifies terminology for a manicurist specialty license. The substitute limits continuing education for licensees who are at least 65 years of age and have held a cosmetology license for at least 15 years. The licensee would need no more than four hours of health and safety to renew the license. The substitute requires a cosmetology school to notify TDLR not later than the 5<sup>th</sup> day after final payment of a student's tuition to the school.

CSHB 2106 adds provisions to Chapter 1603, Occupations Code, to prevent a cosmetology applicant from taking an examination unless TDLR has received notice that the applicant has paid all tuition owed to cosmetology schools attended. The substitute adds dry heat and ultraviolet sterilizer as options for sterilizing metal instruments used in manicuring and pedicuring. The substitute authorizes the executive director to issue an emergency order to suspend or revoke a license or to cease operation of an unsafe facility if an emergency requires immediate action. A hearing is required to be held after the order is issued. The substitute authorizes the executive director to issue a cease and desist order, after notice and an opportunity for hearing.

The committee substitute adds repealers and additional transition language. The substitute repeals an archaic student permit fee provision and duplicative provisions related to sterilization of manicure and pedicure instruments. The substitute provides for issuance of a barber hair braider certificate to a person who applies no later than October 1, 2007 and has at least ten years of practice.

The committee substitute replaces language that would have required the Texas Commission on Licensing and Regulation rulemaking for certain sections of the substitute to take place as soon as practicable. The new language is in Section 25, which requires the Texas Commission on Licensing and Regulation to adopt rules by January 1, 2008 to implement certain sections of the substitute. The committee substitute amends the effective date provisions to specify that Sections 1602.466 and 1603.258, Occupations Code, as added by the substitute, take effect April 1, 2008.

Finally, the committee substitute removes the effective date of May 1, 2008 for Section 1603.205, Occupations Code.

## SUMMARY OF COMMITTEE ACTION

HB 2106

March 27, 2007 10:30 AM or upon final adjourn./recess

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Considered in public hearing

Committee substitute considered in committee

Testimony taken in committee (See attached witness list.)

Reported favorably as substituted



WITNESS LIST

HB 2106

HOUSE COMMITTEE REPORT

Licensing & Administrative Procedures Committee

March 27, 2007 - 10:30 AM or upon final adjourn./recess

Registering, but not testifying:

On: Shirley, Joe (Self)

- Committee Substitute (#1 by Thompson)

For: Davis, Betty (Self)

Dieye (Jay), Papa (Hair Braiders Association of Texas)

Holcombe, Linda (Texas Industrial Vocational Assoc (TIVA))

Horak, Martin (Self)

Schnabel, Charlie (Lone Star Cosmetology Assn)

Registering, but not testifying:

For: Colwen, Linda (Self)

Davis, Jennifer (Self)

Dunn, Erin (Lonestar Cosmetology Association)

On: Kuntz, Jr., William H. (Texas Department of Licensing & Regulation)

**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

April 2, 2007

**TO:** Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** HB2106 by Chisum (relating to the regulation of barbering and cosmetology. ), Committee Report 1st House, Substituted

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Occupations Code relating to the regulation of barbering and cosmetology. The bill would provide for the establishment of the hair weaving specialty certificate of registration, the hair braiding specialty certificate of registration, and establish a dual barber and beauty shop license. The bill would limit the continuing education requirements for cosmetology licensees age 65 and older with at least 15 years of licensure. The bill would require the Department of Licensing and Regulation (TDLR) to verify each applicant for the cosmetologist examination has paid all tuition owed to the school. The bill would give the Executive Director of TDLR the authority to issue an emergency order to suspend or revoke a license or permit issued to barbers, cosmetologists, and related occupations; and allow the Executive Director of TDLR to issue a cease and desist order under certain circumstances.

Based on information provided by TDLR, it is assumed that costs related to the duties and responsibilities associated with implementing the provisions of the bill could be covered by utilizing existing resources.

The provisions providing for the eligibility of the specialty certificate and the eligibility for the cosmetologist examination would take effect April 1, 2008. The remaining provisions of the bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2007.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 452 Department of Licensing and Regulation

**LBB Staff:** JOB, JRO, AH

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 26, 2007**

**TO:** Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB2106** by Chisum (Relating to the regulation of barbering and cosmetology.), As  
**Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend the Occupations Code relating to the regulation of barbering and cosmetology. The bill would provide for the establishment of the hair weaving specialty certificate of registration, the hair braiding specialty certificate of registration, and establish a dual barber and beauty shop license.

Based on information provided by the Department of Licensing and Regulation, it is assumed that costs related to the duties and responsibilities associated with implementing the provisions of the bill could be covered by utilizing existing resources.

The provisions providing for the dual barber and beauty shop license would take effect May 1, 2008. The remaining provisions of the bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2007.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 452 Department of Licensing and Regulation

**LBB Staff:** JOB, JRO, AH

ADOPTED

MAY 03 2007

Robert Hanes  
Chief Clerk  
House of Representatives

See as amended

By:

~~Chrisman~~

Substitute the following for H.B. No. 2106:

By:

~~Thompson~~

~~H.B. No. 2106~~

~~C.S. H.B. No. 2106~~

A BILL TO BE ENTITLED

AN ACT

<EOH> ~~e~~

relating to the regulation of barbering and cosmetology.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1601.002, Occupations Code, is amended to read as follows:

Sec. 1601.002. DEFINITION OF BARBERING. In this chapter, "barbering," "practicing barbering," or the "practice of barbering" means:

(1) performing or offering or attempting to perform for compensation or the promise of compensation any of the following services:

(A) treating a person's mustache or beard by arranging, beautifying, coloring, processing, shaving, styling, or trimming;

(B) treating a person's hair by:

(i) arranging, beautifying, bleaching, cleansing, coloring, curling, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, tinting, or waving;

1 (ii) providing a necessary service that is  
2 preparatory or ancillary to a service under Subparagraph (i),  
3 including bobbing, clipping, cutting, or trimming; or

4 (iii) cutting the person's hair as a  
5 separate and independent service for which a charge is directly  
6 or indirectly made separately from a charge for any other  
7 service;

8 (C) cleansing, stimulating, or massaging a  
9 person's scalp, face, neck, arms, or shoulders:

10 (i) by hand or by using a device,  
11 apparatus, or appliance; and

12 (ii) with or without the use of any  
13 cosmetic preparation, antiseptic, tonic, lotion, or cream;

14 (D) beautifying a person's face, neck, arms, or  
15 shoulders using a cosmetic preparation, antiseptic, tonic,  
16 lotion, powder, oil, clay, cream, or appliance;

17 (E) treating a person's nails by:

18 (i) cutting, trimming, polishing, tinting,  
19 coloring, cleansing, manicuring, or pedicuring; or

20 (ii) attaching false nails;

21 (F) massaging, cleansing, treating, or  
22 beautifying a person's hands;

23 (G) administering facial treatments;

24 (H) weaving a person's hair by using any method  
25 to attach commercial hair to a person's hair or scalp;

26 (I) shampooing or conditioning a person's hair;

1 [er]

2 (J) servicing in any manner listed in Paragraph  
3 (B) a person's wig, toupee, or artificial hairpiece on a  
4 person's head or on a block after the initial retail sale; or

5 (K) braiding a person's hair, trimming hair  
6 extensions only as applicable to the braiding process, and  
7 attaching commercial hair only by braiding and without the use  
8 of chemicals or adhesives;

9 (2) advertising or representing to the public in any  
10 manner that a person is a barber or is authorized to practice  
11 barbering; or

12 (3) advertising or representing to the public in any  
13 manner that a location or place of business is a barbershop,  
14 specialty shop, or barber school.

15 SECTION 2. Section 1601.253(b), Occupations Code, is  
16 amended to read as follows:

17 (b) The department shall issue a Class A barber  
18 certificate to an applicant who:

19 (1) complies with the application requirements of  
20 this chapter;

21 (2) passes the applicable examination ~~[with an~~  
22 ~~average grade of at least 75 percent]~~;

23 (3) pays the required fee; and

24 (4) possesses the other qualifications required by  
25 this chapter.

26 SECTION 3. Subchapter F, Chapter 1601, Occupations Code,

1 is amended by adding Sections 1601.258 and 1601.259 to read as  
2 follows:

3 Sec. 1601.258. ELIGIBILITY FOR HAIR WEAVING SPECIALTY  
4 CERTIFICATE OF REGISTRATION. (a) A person holding a hair weaving  
5 specialty certificate of registration may perform only barbering  
6 as defined by Section 1601.002(1)(H).

7 (b) An applicant for a hair weaving specialty certificate  
8 of registration must:

9 (1) be at least 17 years of age; and

10 (2) satisfy the requirements specified by the  
11 department, including training through a commission-approved  
12 training program.

13 (c) The department shall issue a hair weaving specialty  
14 certificate of registration to an applicant who:

15 (1) possesses the qualifications described by  
16 Subsection (b);

17 (2) pays the required registration fee; and

18 (3) has not committed an act that constitutes a  
19 ground for denial of the certificate.

20 Sec. 1601.259. ELIGIBILITY FOR HAIR BRAIDING SPECIALTY  
21 CERTIFICATE OF REGISTRATION. (a) A person holding a hair  
22 braiding specialty certificate of registration may perform only  
23 barbering as defined by Section 1601.002(1)(K).

24 (b) An applicant for a hair braiding specialty certificate  
25 must:

26 (1) be at least 17 years of age; and

1           (2) satisfy the requirements specified by the  
2 department, including training through a commission-approved  
3 training program.

4           (c) The department shall issue a hair braiding specialty  
5 certificate of registration to an applicant who:

6           (1) possesses the qualifications described by  
7 Subsection (b);

8           (2) pays the required registration fee; and

9           (3) has not committed an act that constitutes a  
10 ground for denial of the certificate.

11           SECTION 4. Section 1601.303, Occupations Code, is amended  
12 to read as follows:

13           Sec. 1601.303. ISSUANCE OF BARBERSHOP PERMIT. The  
14 department shall issue a barbershop permit to an applicant if:

15           (1) the applicant owns the barbershop; ~~[and]~~

16           (2) the applicant verifies the application; and

17           (3) the shop meets the minimum health standards for  
18 barbershops set by the commission and complies with all other  
19 commission rules.

20           SECTION 5. Sections 1601.304 and 1601.305, Occupations  
21 Code, are amended to read as follows:

22           Sec. 1601.304. ~~[MANICURIST]~~ SPECIALTY SHOP PERMIT. (a) A  
23 person who holds a ~~[manicurist]~~ specialty shop permit may  
24 maintain an establishment in which only barbering as defined by  
25 Section ~~[Sections]~~ 1601.002(1)(E), ~~[and]~~ (F), (H), or (K) is  
26 performed. ~~[A manicurist specialty shop may be operated only~~



1 ~~under the direction of a person who holds a manicurist license.]~~

2 (b) An applicant for a [~~manicurist~~] specialty shop permit  
3 must submit:

4 (1) an application on a department-approved form  
5 ~~[that includes:~~

6 [~~(A) the shop's address;~~

7 [~~(B) the legal description of the premises for~~  
8 ~~which the permit is sought; and~~

9 [~~(C) any other information required by the~~  
10 ~~department]; and~~

11 (2) the required inspection fee.

12 ~~[(c) As soon as practicable after receipt of the~~  
13 ~~application and fee, the department shall issue a temporary~~  
14 ~~manicurist specialty shop permit to the applicant. The~~  
15 ~~applicant may operate the applicant's shop under the temporary~~  
16 ~~permit until a permanent permit is issued.]~~

17 Sec. 1601.305. ISSUANCE OF [~~MANICURIST~~] SPECIALTY SHOP  
18 PERMIT. The department shall issue a [~~permanent manicurist~~]  
19 specialty shop permit to an applicant if:

20 (1) the applicant submits proof that the applicant  
21 satisfies the requirements established by the commission for a  
22 specialty shop [~~holds a manicurist license~~]; [and]

23 (2) the applicant pays the required inspection fee  
24 and permit fee;

25 (3) the applicant verifies the application and the  
26 application complies with commission rules; and

1           (4) the applicant has not committed an act that  
2 constitutes a ground for denial of a permit, certificate, or  
3 license under this chapter [~~the shop meets the minimum health~~  
4 ~~standards for manicurist specialty shops set by the commission,~~  
5 ~~as determined by a department inspection under Section 1603.103,~~  
6 ~~and any other requirements imposed by commission rule~~].

7       SECTION 6. Section 1601.353(a), Occupations Code, is  
8 amended to read as follows:

9       (a) The department may not approve an application for a  
10 permit for a barber school that provides training leading to  
11 issuance of a Class A barber certificate unless the school has:

12           (1) a [~~an adequate school site housed in a~~  
13 ~~substantial~~] building of permanent construction containing at  
14 least 2,800 square feet of floor space, divided into at least:

15                   (A) a senior department;

16                   (B) a junior department;

17                   (C) a class theory room;

18                   (D) a supply room;

19                   (E) an office space; and

20                   (F) [~~a dressing and cloak room; and~~

21                   ~~[(G) two sanitary, modern,] separate restrooms~~  
22 for male and female students [~~, each equipped with one commode~~  
23 ~~and one of which is also equipped with a urinal~~];

24           (2) a hard-surface floor-covering of tile or other  
25 suitable material;

26           (3) at least 20 modern barber chairs, including a

1 cabinet and mirror for each chair;

2 (4) a sink for [~~lavatory behind~~] every two barber  
3 chairs;

4 (5) a liquid sterilizer for each barber chair;

5 (6) an adequate number of latherers, vibrators, and  
6 hair dryers for student use;

7 (7) adequate lighting for each room;

8 (8) at least 20 classroom chairs, a blackboard,  
9 anatomical charts of the head, neck, and face, and one barber  
10 chair in the class theory room;

11 (9) [~~a library with library facilities available to~~  
12 ~~students containing~~] at least one medical dictionary and a  
13 standard work on human anatomy;

14 (10) adequate drinking fountain facilities, with at  
15 least one for each floor; and

16 (11) at least one fire extinguisher [~~adequate~~  
17 ~~toilet facilities for the students, and~~

18 [~~(12) adequate fire fighting equipment~~].

19 SECTION 7. Section 1601.453, Occupations Code, is amended  
20 to read as follows:

21 Sec. 1601.453. LOCATION OF PRACTICE. A person licensed by  
22 the department may practice barbering only at a location for  
23 which the department has issued a barbershop permit, specialty  
24 shop permit, or barber school permit under this chapter or a  
25 permit issued under Chapter 1603.

26 SECTION 8. Section 1602.256, Occupations Code, is amended

1 to read as follows:

2 Sec. 1602.256. ELIGIBILITY FOR A MANICURIST SPECIALTY  
3 LICENSE. (a) A person holding a manicurist specialty license  
4 may perform only the practice of cosmetology defined in Section  
5 1602.002(a)(10) or (11) [~~1602.002(9) or (10)~~].

6 (b) To be eligible for a manicurist specialty license, an  
7 applicant must:

8 (1) be at least 17 years of age;

9 (2) have obtained a high school diploma or the  
10 equivalent of a high school diploma or have passed a valid  
11 examination administered by a certified testing agency that  
12 measures the person's ability to benefit from training; and

13 (3) have completed 600 hours of instruction in  
14 manicuring through a commission-approved training program.

15 SECTION 9. Section 1602.257(a), Occupations Code, is  
16 amended to read as follows:

17 (a) A person holding a facialist specialty license may  
18 perform only the practice of cosmetology defined in Sections  
19 1602.002(a)(6) through (9) [~~Section 1602.002(7)~~].

20 SECTION 10. Section 1602.258, Occupations Code, is amended  
21 to read as follows:

22 Sec. 1602.258. ELIGIBILITY FOR A SPECIALTY  
23 CERTIFICATE. (a) A person holding a specialty certificate may  
24 perform only the practice of cosmetology defined in Sections  
25 1602.002(a)(2) through (4) [~~Section 1602.002(2), (3), (4), or~~  
26 ~~(7)~~].

(b) To be eligible for a specialty certificate, an applicant must:

(1) be at least 17 years of age; and

(2) ~~[have obtained a high school diploma or the equivalent of a high school diploma or have passed a valid examination administered by a certified testing agency that measures the person's ability to benefit from training; and~~

[+3] have the necessary requisites as determined by the department in the particular specialty for which certification is sought, including training through a commission-approved training program.

SECTION 11. Section 1602.262(a), Occupations Code, is amended to read as follows:

(a) An applicant for an operator license, instructor license, manicurist specialty license, or facialist specialty license is entitled to the license if the applicant:

(1) meets the applicable eligibility requirements;

(2) passes the applicable examination;

(3) pays the required fee; and

(4) has not committed an act that constitutes a ground for denial of the license.

SECTION 12. Section 1602.303(b), Occupations Code, is amended to read as follows:

(b) An application for a private beauty culture school license must be accompanied by the required license fee and inspection fee and:

1           (1) be on a form prescribed by the department;  
2           (2) be verified by the applicant; and  
3           (3) ~~[contain a detailed floor plan of the school~~  
4 ~~building divided into two separate areas, one area for~~  
5 ~~instruction in theory and one area for clinic work; and~~  
6           [~~(4)~~] contain a statement that the building:  
7                 (A) ~~[is fireproof;~~  
8                 [~~(B)~~] is of permanent construction and is  
9 divided into at least two separate areas:  
10                         (i) one area for instruction in theory; and  
11                         (ii) one area for clinic work;  
12                 (B) [~~(C)~~] contains a minimum of 3,500 square  
13 feet of floor space;  
14                 (C) [~~(D)~~] has separate restrooms for male and  
15 female students; and  
16                 (D) [~~(E)~~] contains, or will contain before  
17 classes begin, the equipment established by commission rule as  
18 sufficient to properly instruct a minimum of 50 students.  
19         SECTION 13. Section 1602.354, Occupations Code, is amended  
20 to read as follows:  
21         Sec. 1602.354. CONTINUING EDUCATION.   (a) The commission  
22 will by rule recognize, prepare, or administer continuing  
23 education programs for the practice of cosmetology.  
24 ~~Participation in the programs is mandatory for all license~~  
25 ~~renewals.~~  
26         ~~(b)~~—The commission may only require a license holder to

1- complete continuing education of not more than four hours in  
2- health and safety courses if the license holder:

3           (1) is at least 65 years of age; and

4           (2) has held a cosmetology license for at least 15  
5 years.

6           SECTION 14. Section 1602.403(a), Occupations Code, is  
7 amended to read as follows:

8           (a) A private beauty culture school may not employ:

9           (1) a person holding an operator license, manicurist  
10 specialty license, or specialty certificate solely to perform  
11 the practices of cosmetology for which the person is licensed or  
12 certified; or

13           (2) a person holding an instructor license to perform  
14 any act or practice of cosmetology.

① 15           ~~SECTION 15. Subchapter J, Chapter 1602, Occupations Code,~~  
16 ~~is amended by adding Section 1602.466 to read as follows:~~

17           ~~Sec. 1602.466. NOTIFICATION OF FINAL TUITION PAYMENT. Each~~  
18 ~~beauty culture school shall notify the department not later than~~  
19 ~~the fifth day after the date the school or program receives~~  
20 ~~final payment of all tuition that a student owes to the school.~~

21           <sup>5</sup>SECTION 16. Section 1603.103, Occupations Code, is amended  
22 to read as follows:

23           Sec. 1603.103. INSPECTION OF SCHOOLS[, ~~SHOPS, AND~~  
24 ~~FACILITIES~~] BEFORE OPERATION. (a) Until the department  
25 determines, by inspection, that the person has established the  
26 school[, ~~shop, or facility~~] in compliance with this chapter,

1 Chapter 1601, or Chapter 1602, a person may not operate a  
2 school[, ~~shop, or other facility~~] licensed or permitted under  
3 this chapter, Chapter 1601, or Chapter 1602.

4 (b) A school[, ~~shop, or other facility~~] that is not  
5 approved by the department on initial inspection may be  
6 reinspected.

7 (c) The department may charge the school[, ~~shop, or other~~  
8 ~~facility shall pay~~] a fee for each inspection. The commission  
9 shall by rule set the amount of the fee.

10 SECTION 1<sup>6</sup>~~7~~. Sections 1603.104(b) and (e), Occupations  
11 Code, are amended to read as follows:

12 (b) At least once every two years, the department shall  
13 inspect each [~~school,~~] shop[, ] or other facility that holds a  
14 license, certificate, or permit in which the practice of  
15 barbering or cosmetology is performed under this chapter,  
16 Chapter 1601, or Chapter 1602, and at least twice per year, the  
17 department shall inspect each school in which barbering or  
18 cosmetology is taught under this chapter, Chapter 1601, or  
19 Chapter 1602.

20 (e) The department may charge the school, shop, or other  
21 facility [~~shall pay~~] a fee for each inspection performed under  
22 this section [~~Subsection (e)~~]. The commission shall by rule set  
23 the amount of the fee.

24 SECTION 1<sup>7</sup>~~8~~. Subchapter C, Chapter 1603, Occupations Code,  
25 is amended by adding Section 1603.1045 to read as follows:

26 Sec. 1603.1045. CONTRACT TO PERFORM INSPECTIONS. The



1 department may contract with a person to perform for the  
2 department inspections of a school, shop, or other facility  
3 under this chapter, Chapter 1601, or Chapter 1602.

4 SECTION <sup>8</sup>19. Subchapter E, Chapter 1603, Occupations Code,  
5 is amended by adding Section 1603.205 to read as follows:

6 Sec. 1603.205. DUAL BARBER AND BEAUTY SHOP LICENSE. (a) A  
7 person holding a dual barber and beauty shop license may own,  
8 operate, or manage a shop in which any practice of barbering  
9 defined by Section 1601.002(1) or cosmetology defined by Section  
10 1602.002(a) is performed.

11 (b) An applicant for a dual barber and beauty shop license  
12 must submit:

13 (1) an application on a department-approved form that  
14 is verified by the applicant;

15 (2) proof that the applicant meets the applicable  
16 requirements under Chapters 1601 and 1602 for obtaining a  
17 barbershop permit and a beauty shop license; and

18 (3) the required license fee.

19 (c) The department shall issue a dual barber and beauty  
20 shop license to an applicant that:

21 (1) meets the requirements under this chapter and  
22 Chapters 1601 and 1602;

23 (2) complies with commission rules; and

24 (3) pays the required fees.

25 (d) The holder of a dual barber and beauty shop license  
26 must comply with this chapter, Chapters 1601 and 1602, and

1 commission rules related to barbering and cosmetology.

① 2 SECTION 20. Subchapter F, Chapter 1603, Occupations Code,  
3 is amended by adding Section 1603.258 to read as follows:

4 Sec. 1603.258. ELIGIBILITY FOR COSMETOLOGIST EXAMINATION.

5 An applicant is not eligible to take an examination for a  
6 license or certificate under Chapter 1602 unless the department  
7 has received notice from each beauty culture school from which  
8 the applicant accrued hours that the applicant has paid all  
9 tuition owed to the school.

10 SECTION <sup>19</sup>~~21~~. Section 1603.352, Occupations Code, is amended  
11 to read as follows:

12 Sec. 1603.352. STERILIZATION [~~SANITATION~~] REQUIREMENTS FOR  
13 CERTAIN SERVICES. (a) A person who holds a license,  
14 certificate, or permit issued under this chapter, Chapter 1601,  
15 or Chapter 1602 and who performs a barbering service described  
16 by Section 1601.002(1)(E) or (F) or a cosmetology service  
17 described by Section 1602.002(a)(10) or (11) [~~1602.002(10) or~~  
18 ~~(11):~~

19 [~~(11)~~] shall, before performing the service, clean,  
20 disinfect, and sterilize with an autoclave or a dry heat <sup>((Insert 1))</sup> ~~or a~~  
21 ultraviolet<sup>a</sup> sterilizer, in accordance with the sterilizer  
22 manufacturer's instructions, each metal [~~nondisposable~~]  
23 instrument, including metal nail clippers, cuticle pushers,  
24 cuticle nippers, and other metal instruments, used to perform  
25 the service [~~and~~

26 [~~(2) may use a disposable supply or instrument only~~

1 ~~if that supply or instrument is purchased at the location where~~  
2 ~~the service is performed or provided by the person on whom the~~  
3 ~~service is performed].~~

4 (b) The owner or manager of a barber shop, barber school,  
5 beauty shop, specialty shop, ~~[or]~~ beauty culture school, or  
6 other facility licensed under this chapter, Chapter 1601, or  
7 Chapter 1602, is responsible for providing an autoclave or a dry

8 heat <sup>((Insert 2))</sup> ~~or ultraviolet~~ sterilizer for use in the shop or school as  
9 required by Subsection (a). An autoclave or a dry heat <sup>((Insert 3))</sup> ~~or~~

10 ultraviolet sterilizer used as required by Subsection (a) must  
11 be [+  
12 [~~(1) registered and~~] listed with the United States  
13 [federal] Food and Drug Administration [~~+~~ and  
14 [~~(2) used in accordance with the manufacturer's~~  
15 instructions].

16 (c) Each sterilized instrument must be stored in  
17 accordance with the manufacturer's instructions.

18 (d) This section does not apply to:

19 (1) single-use instruments; or

20 (2) nonmetal nail files, buffer blocks, pumice  
21 stones, nail brushes, or other similar instruments.

22 (e) The commission may adopt rules to administer this  
23 section.

24 SECTION <sup>20</sup>/<sub>22</sub>. Subchapter J, Chapter 1603, Occupations Code,  
25 is amended by adding Sections 1603.455 and 1603.456 to read as  
26 follows:

1       Sec. 1603.455. EMERGENCY ORDERS. (a) The executive  
2 director may issue an emergency order to suspend or revoke a  
3 license or permit issued, or to cease the operation of an unsafe  
4 facility regulated, by the department under this title if the  
5 executive director determines that an emergency exists requiring  
6 immediate action to protect the public health and safety.

7       (b) The executive director may issue the emergency order  
8 with or without notice and hearing as the executive director  
9 considers practicable under the circumstances.

10       (c) If an emergency order is issued under this section  
11 without a hearing, the executive director, not later than the  
12 10th day after the date the emergency order was issued, shall  
13 set the time and place for a hearing conducted by the State  
14 Office of Administrative Hearings to affirm, modify, or set  
15 aside the emergency order. The executive director shall set the  
16 hearing for a date not later than the 30th day after the date  
17 the time and place for the hearing are set. The hearing  
18 examiner shall affirm the order to the extent that reasonable  
19 cause existed to issue the order.

20       (d) The commission by rule may prescribe procedures for  
21 the issuance and appeal of an emergency order under this  
22 section, including a rule to allow the commission to affirm,  
23 modify, or set aside a decision by the State Office of  
24 Administrative Hearings under Subsection (c).

25       (e) A proceeding under this section is a contested case  
26 under Chapter 2001, Government Code.

1       Sec. 1603.456. CEASE AND DESIST ORDERS. The executive  
2 director may issue a cease and desist order, after notice and  
3 opportunity for hearing, if the executive director determines  
4 that the order is necessary to prevent a violation of:

5           (1) this chapter, Chapter 1601, or Chapter 1602; or

6           (2) a rule adopted by the commission.

7       SECTION <sup>121/</sup>~~23~~. Sections 1601.506, 1602.266(c), and 1602.408,  
8 Occupations Code, are repealed.

9       SECTION <sup>122/</sup>~~24~~. (a) The Texas Department of Licensing and  
10 Regulation shall issue a hair braiding specialty certificate of  
11 registration under Section 1601.259, Occupations Code, as added  
12 by this Act, to an applicant qualified under this section who:

13           (1) applies for a certificate of registration under  
14 this section not later than October 1, 2007;

15           (2) has the experience required by this section; and

16           (3) pays the application fee.

17       (b) An applicant for a hair braiding specialty certificate  
18 of registration under this section is required to have practiced  
19 hair braiding in this state for at least 10 years before the  
20 regulation of hair braiding by Chapter 267, Acts of the 75th  
21 Legislature, Regular Session, 1997.

22       (c) This section expires on October 31, 2007.

23       SECTION <sup>123/</sup>~~25~~. Not later than January 1, 2008, the Texas  
24 Commission of Licensing and Regulation shall adopt rules  
25 necessary to implement the changes in law made by this Act,  
26 including rules to administer:

1           (1) Sections 1601.258 and 1601.259, Occupations Code,  
2 as added by this Act, related to eligibility for hair weaving  
3 and hair braiding specialty certificates;

4           (2) Section 1602.354, Occupations Code, as amended by  
5 this Act, related to continuing education and renewal  
6 requirements;

7           (3) Sections 1602.466 and 1603.258, Occupations Code,  
8 as added by this Act, related to the requirement that an  
9 applicant for a cosmetologist examination may not owe tuition to  
10 a beauty culture school; and

11           (4) Section 1603.205, Occupations Code, as added by  
12 this Act, related to dual barber and beauty shop licenses.

13           SECTION <sup>24/</sup>~~26~~. The changes in law made by this Act apply only  
14 to an application for the issuance or renewal of a license,  
15 permit, or certificate that is filed with the Texas Department  
16 of Licensing and Regulation on or after the effective date of  
17 this Act. An application for the issuance or renewal of a  
18 license, permit, or certificate that is filed before the  
19 effective date of this Act is governed by the law in effect on  
20 the date the application was filed, and the former law is  
21 continued in effect for that purpose.

22           SECTION <sup>25/</sup>~~27~~. Notwithstanding Section 1603.205, Occupations  
23 Code, as added by this Act, the Texas Department of Licensing  
24 and Regulation may not issue a license under that section before  
25 May 1, 2008.

26           SECTION <sup>26/</sup>~~28~~. (a) Except as provided by Subsection (b) of

1 this section, this Act takes effect immediately if it receives a  
2 vote of two-thirds of all the members elected to each house, as  
3 provided by Section 39, Article III, Texas Constitution. If  
4 this Act does not receive the vote necessary for immediate  
5 effect, this Act takes effect September 1, 2007.

6 (b) Sections 1602.466 and 1603.258, Occupations Code, as  
7 added by this Act, take effect April 1, 2008.

LIST OF HOUSE AMENDMENTS PREVIOUSLY UNDER CONSIDERATION

HB2106-Second Reading

<u>AMENDMENT#</u>	<u>AUTHOR</u>	<u>DESCRIPTION</u>	<u>ACTION</u>
1	Chisum	Amendment	Adopted
2	Harper-Brown	Amendment	Adopted





291108

FLOOR AMENDMENT NO. 1

BY: Chisum Brown  
Laurel Brown

1 Amend C.S.H.B. No. 2106 (House Committee Printing) as  
2 follows:

3 ✓(1) Strike SECTION 15 of the bill (page 11, line 24 through  
4 page 12, line 2).

5 ✓(2) Strike SECTION 20 of the bill (page 14, lines 6 through  
6 13).

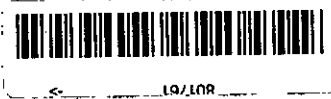
7 ✓(3) Renumber the subsequent SECTIONS of the bill  
8 accordingly.

ADOPTED  
MAY 03 2007 JCC  
Robert Honey Ct  
Chief Clerk  
House of Representatives

ADOPTED

MAY 03 2007

Robert Hanes  
Chief Clerk  
House of Representatives



FLOOR AMENDMENT NO. 2

BY:

*Janita Harper Brown*

1 Amend C.S.H.B. No. 2106 (House Committee Report) as follows:

2 ✓(1) On page <sup>15</sup>14, lines <sup>20</sup>23 and <sup>21</sup>24, strike "or ultraviolet" and  
Insert 1 substitute ", ultraviolet, or other department-approved".

4 ✓(2) On page <sup>15</sup>15, lines <sup>9</sup>9 and <sup>10</sup>10, strike "or ultraviolet" and  
Insert 5 2 substitute ", ultraviolet, or other department-approved".

6 ✓(3) On page 15, line 11, strike "or ultraviolet" and  
Insert 7 3 substitute ", ultraviolet, or other department-approved".

SECOND READING  
ENGROSSMENT

By: Chisum, Deshotel, Hopson

H.B. No. 2106

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of barbering and cosmetology.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1601.002, Occupations Code, is amended to read as follows:

Sec. 1601.002. DEFINITION OF BARBERING. In this chapter, "barbering," "practicing barbering," or the "practice of barbering" means:

(1) performing or offering or attempting to perform for compensation or the promise of compensation any of the following services:

(A) treating a person's mustache or beard by arranging, beautifying, coloring, processing, shaving, styling, or trimming;

(B) treating a person's hair by:

(i) arranging, beautifying, bleaching, cleansing, coloring, curling, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, tinting, or waving;

(ii) providing a necessary service that is preparatory or ancillary to a service under Subparagraph (i), including bobbing, clipping, cutting, or trimming; or

(iii) cutting the person's hair as a separate and independent service for which a charge is directly or

1 indirectly made separately from a charge for any other service;

2 (C) cleansing, stimulating, or massaging a  
3 person's scalp, face, neck, arms, or shoulders:

4 (i) by hand or by using a device, apparatus,  
5 or appliance; and

6 (ii) with or without the use of any cosmetic  
7 preparation, antiseptic, tonic, lotion, or cream;

8 (D) beautifying a person's face, neck, arms, or  
9 shoulders using a cosmetic preparation, antiseptic, tonic, lotion,  
10 powder, oil, clay, cream, or appliance;

11 (E) treating a person's nails by:

12 (i) cutting, trimming, polishing, tinting,  
13 coloring, cleansing, manicuring, or pedicuring; or

14 (ii) attaching false nails;

15 (F) massaging, cleansing, treating, or  
16 beautifying a person's hands;

17 (G) administering facial treatments;

18 (H) weaving a person's hair by using any method  
19 to attach commercial hair to a person's hair or scalp;

20 (I) shampooing or conditioning a person's hair;

21 [~~or~~]

22 (J) servicing in any manner listed in Paragraph  
23 (B) a person's wig, toupee, or artificial hairpiece on a person's  
24 head or on a block after the initial retail sale; or

25 (K) braiding a person's hair, trimming hair  
26 extensions only as applicable to the braiding process, and  
27 attaching commercial hair only by braiding and without the use of

1 chemicals or adhesives;

2 (2) advertising or representing to the public in any  
3 manner that a person is a barber or is authorized to practice  
4 barbering; or

5 (3) advertising or representing to the public in any  
6 manner that a location or place of business is a barbershop,  
7 specialty shop, or barber school.

8 SECTION 2. Section 1601.253(b), Occupations Code, is  
9 amended to read as follows:

10 (b) The department shall issue a Class A barber certificate  
11 to an applicant who:

12 (1) complies with the application requirements of this  
13 chapter;

14 (2) passes the applicable examination [~~with an average~~  
15 ~~grade of at least 75 percent~~];

16 (3) pays the required fee; and

17 (4) possesses the other qualifications required by  
18 this chapter.

19 SECTION 3. Subchapter F, Chapter 1601, Occupations Code, is  
20 amended by adding Sections 1601.258 and 1601.259 to read as  
21 follows:

22 Sec. 1601.258. ELIGIBILITY FOR HAIR WEAVING SPECIALTY  
23 CERTIFICATE OF REGISTRATION. (a) A person holding a hair weaving  
24 specialty certificate of registration may perform only barbering as  
25 defined by Section 1601.002(1)(H).

26 (b) An applicant for a hair weaving specialty certificate of  
27 registration must:

1           (1) be at least 17 years of age; and

2           (2) satisfy the requirements specified by the  
3 department, including training through a commission-approved  
4 training program.

5           (c) The department shall issue a hair weaving specialty  
6 certificate of registration to an applicant who:

7           (1) possesses the qualifications described by  
8 Subsection (b);

9           (2) pays the required registration fee; and

10           (3) has not committed an act that constitutes a ground  
11 for denial of the certificate.

12           Sec. 1601.259. ELIGIBILITY FOR HAIR BRAIDING SPECIALTY  
13 CERTIFICATE OF REGISTRATION. (a) A person holding a hair braiding  
14 specialty certificate of registration may perform only barbering as  
15 defined by Section 1601.002(1)(K).

16           (b) An applicant for a hair braiding specialty certificate  
17 must:

18           (1) be at least 17 years of age; and

19           (2) satisfy the requirements specified by the  
20 department, including training through a commission-approved  
21 training program.

22           (c) The department shall issue a hair braiding specialty  
23 certificate of registration to an applicant who:

24           (1) possesses the qualifications described by  
25 Subsection (b);

26           (2) pays the required registration fee; and

27           (3) has not committed an act that constitutes a ground

1 for denial of the certificate.

2 SECTION 4. Section 1601.303, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1601.303. ISSUANCE OF BARBERSHOP PERMIT. The  
5 department shall issue a barbershop permit to an applicant if:

- 6 (1) the applicant owns the barbershop; ~~and~~  
7 (2) the applicant verifies the application; and  
8 (3) the shop meets the minimum health standards for  
9 barbershops set by the commission and complies with all other  
10 commission rules.

11 SECTION 5. Sections 1601.304 and 1601.305, Occupations  
12 Code, are amended to read as follows:

13 Sec. 1601.304. ~~[MANICURIST]~~ SPECIALTY SHOP PERMIT. (a) A  
14 person who holds a ~~[manicurist]~~ specialty shop permit may maintain  
15 an establishment in which only barbering as defined by Section  
16 ~~[Sections]~~ 1601.002(1)(E), ~~and~~ (F), (H), or (K) is performed. ~~[A~~  
17 ~~manicurist specialty shop may be operated only under the direction~~  
18 ~~of a person who holds a manicurist license.]~~

19 (b) An applicant for a ~~[manicurist]~~ specialty shop permit  
20 must submit:

- 21 (1) an application on a department-approved form ~~[that~~  
22 ~~includes:~~

- 23 ~~[(A) the shop's address,~~  
24 ~~[(B) the legal description of the premises for~~  
25 ~~which the permit is sought, and~~  
26 ~~[(C) any other information required by the~~  
27 ~~department]; and~~

(2) the required inspection fee.

~~[(c) As soon as practicable after receipt of the application and fee, the department shall issue a temporary manicurist specialty shop permit to the applicant. The applicant may operate the applicant's shop under the temporary permit until a permanent permit is issued.]~~

Sec. 1601.305. ISSUANCE OF [MANICURIST] SPECIALTY SHOP PERMIT. The department shall issue a [~~permanent manicurist~~] specialty shop permit to an applicant if:

(1) the applicant submits proof that the applicant satisfies the requirements established by the commission for a specialty shop [~~holds a manicurist license~~]; [~~and~~]

(2) the applicant pays the required inspection fee and permit fee;

(3) the applicant verifies the application and the application complies with commission rules; and

(4) the applicant has not committed an act that constitutes a ground for denial of a permit, certificate, or license under this chapter [~~the shop meets the minimum health standards for manicurist specialty shops set by the commission, as determined by a department inspection under Section 1603.103, and any other requirements imposed by commission rule~~].

SECTION 6. Section 1601.353(a), Occupations Code, is amended to read as follows:

(a) The department may not approve an application for a permit for a barber school that provides training leading to issuance of a Class A barber certificate unless the school has:



(1) a [~~an adequate school site housed in a substantial~~] building of permanent construction containing at least 2,800 square feet of floor space, divided into at least:

(A) a senior department;

(B) a junior department;

(C) a class theory room;

(D) a supply room;

(E) an office space; and

(F) [~~a dressing and cloak room, and~~

~~(G) two sanitary, modern,~~] separate restrooms for male and female students [~~, each equipped with one commode and one of which is also equipped with a urinal~~];

(2) a hard-surface floor-covering of tile or other suitable material;

(3) at least 20 modern barber chairs, including a cabinet and mirror for each chair;

(4) a sink for [~~lavatory behind~~] every two barber chairs;

(5) a liquid sterilizer for each barber chair;

(6) an adequate number of latherers, vibrators, and hair dryers for student use;

(7) adequate lighting for each room;

(8) at least 20 classroom chairs, a blackboard, anatomical charts of the head, neck, and face, and one barber chair in the class theory room;

(9) [~~a library with library facilities available to students containing~~] at least one medical dictionary and a standard

1 work on human anatomy;

2 (10) adequate drinking fountain facilities, with at  
3 least one for each floor; and

4 (11) at least one fire extinguisher [~~adequate~~  
5 ~~toilet facilities for the students, and~~

6 [~~(12) adequate fire-fighting equipment~~].

7 SECTION 7. Section 1601.453, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1601.453. LOCATION OF PRACTICE. A person licensed by  
10 the department may practice barbering only at a location for which  
11 the department has issued a barbershop permit, specialty shop  
12 permit, or barber school permit under this chapter or a permit  
13 issued under Chapter 1603.

14 SECTION 8. Section 1602.256, Occupations Code, is amended  
15 to read as follows:

16 Sec. 1602.256. ELIGIBILITY FOR A MANICURIST SPECIALTY  
17 LICENSE. (a) A person holding a manicurist specialty license may  
18 perform only the practice of cosmetology defined in Section  
19 1602.002(a)(10) or (11) [~~1602.002(9) or (10)~~].

20 (b) To be eligible for a manicurist specialty license, an  
21 applicant must:

22 (1) be at least 17 years of age;

23 (2) have obtained a high school diploma or the  
24 equivalent of a high school diploma or have passed a valid  
25 examination administered by a certified testing agency that  
26 measures the person's ability to benefit from training; and

27 (3) have completed 600 hours of instruction in

manicuring through a commission-approved training program.

SECTION 9. Section 1602.257(a), Occupations Code, is amended to read as follows:

(a) A person holding a facialist specialty license may perform only the practice of cosmetology defined in Sections 1602.002(a)(6) through (9) [~~Section 1602.002(7)~~].

SECTION 10. Section 1602.258, Occupations Code, is amended to read as follows:

Sec. 1602.258. ELIGIBILITY FOR A SPECIALTY CERTIFICATE. (a) A person holding a specialty certificate may perform only the practice of cosmetology defined in Sections 1602.002(a)(2) through (4) [~~Section 1602.002(2), (3), (4), or (7)~~].

(b) To be eligible for a specialty certificate, an applicant must:

(1) be at least 17 years of age; and

(2) [~~have obtained a high school diploma or the equivalent of a high school diploma or have passed a valid examination administered by a certified testing agency that measures the person's ability to benefit from training, and~~

[~~(3)~~] have the necessary requisites as determined by the department in the particular specialty for which certification is sought, including training through a commission-approved training program.

SECTION 11. Section 1602.262(a), Occupations Code, is amended to read as follows:

(a) An applicant for an operator license, instructor license, manicurist specialty license, or facialist specialty

license is entitled to the license if the applicant:

- (1) meets the applicable eligibility requirements;
- (2) passes the applicable examination;
- (3) pays the required fee; and
- (4) has not committed an act that constitutes a ground for denial of the license.

SECTION 12. Section 1602.303(b), Occupations Code, is amended to read as follows:

(b) An application for a private beauty culture school license must be accompanied by the required license fee and inspection fee and:

- (1) be on a form prescribed by the department;
- (2) be verified by the applicant; and
- (3) ~~[contain a detailed floor plan of the school building divided into two separate areas, one area for instruction in theory and one area for clinic work, and~~

~~[(4)]~~ contain a statement that the building:

- (A) ~~[is fireproof,~~
- ~~[(B)]~~ is of permanent construction and is divided into at least two separate areas:

- (i) one area for instruction in theory; and
- (ii) one area for clinic work;
- (B) ~~[(C)]~~ contains a minimum of 3,500 square feet of floor space;
- (C) ~~[(D)]~~ has separate restrooms for male and female students; and
- (D) ~~[(E)]~~ contains, or will contain before

1 classes begin, the equipment established by commission rule as  
2 sufficient to properly instruct a minimum of 50 students.

3 SECTION 13. Section 1602.354, Occupations Code, is amended  
4 to read as follows:

5 Sec. 1602.354. CONTINUING EDUCATION. (a) The commission  
6 will by rule recognize, prepare, or administer continuing education  
7 programs for the practice of cosmetology. Participation in the  
8 programs is mandatory for all license renewals.

9 (b) The commission may only require a license holder to  
10 complete continuing education of not more than four hours in health  
11 and safety courses if the license holder:

12 (1) is at least 65 years of age; and

13 (2) has held a cosmetology license for at least 15  
14 years.

15 SECTION 14. Section 1602.403(a), Occupations Code, is  
16 amended to read as follows:

17 (a) A private beauty culture school may not employ:

18 (1) a person holding an operator license, manicurist  
19 specialty license, or specialty certificate solely to perform the  
20 practices of cosmetology for which the person is licensed or  
21 certified; or

22 (2) a person holding an instructor license to perform  
23 any act or practice of cosmetology.

24 SECTION 15. Section 1603.103, Occupations Code, is amended  
25 to read as follows:

26 Sec. 1603.103. INSPECTION OF SCHOOLS [~~—SHOPS—AND~~  
27 ~~FACILITIES~~] BEFORE OPERATION. (a) Until the department

determines, by inspection, that the person has established the school[, ~~shop, or facility~~] in compliance with this chapter, Chapter 1601, or Chapter 1602, a person may not operate a school[, ~~shop, or other facility~~] licensed or permitted under this chapter, Chapter 1601, or Chapter 1602.

(b) A school[, ~~shop, or other facility~~] that is not approved by the department on initial inspection may be reinspected.

(c) The department may charge the school[, ~~shop, or other facility shall pay~~] a fee for each inspection. The commission shall by rule set the amount of the fee.

SECTION 16. Sections 1603.104(b) and (e), Occupations Code, are amended to read as follows:

(b) At least once every two years, the department shall inspect each [~~school~~,] shop[,] or other facility that holds a license, certificate, or permit in which the practice of barbering or cosmetology is performed under this chapter, Chapter 1601, or Chapter 1602, and at least twice per year, the department shall inspect each school in which barbering or cosmetology is taught under this chapter, Chapter 1601, or Chapter 1602.

(e) The department may charge the school, shop, or other facility [~~shall pay~~] a fee for each inspection performed under this section [~~Subsection (c)~~]. The commission shall by rule set the amount of the fee.

SECTION 17. Subchapter C, Chapter 1603, Occupations Code, is amended by adding Section 1603.1045 to read as follows:

Sec. 1603.1045. CONTRACT TO PERFORM INSPECTIONS. The department may contract with a person to perform for the department

1 inspections of a school, shop, or other facility under this  
2 chapter, Chapter 1601, or Chapter 1602.

3 SECTION 18. Subchapter E, Chapter 1603, Occupations Code,  
4 is amended by adding Section 1603.205 to read as follows:

5 Sec. 1603.205. DUAL BARBER AND BEAUTY SHOP LICENSE. (a) A  
6 person holding a dual barber and beauty shop license may own,  
7 operate, or manage a shop in which any practice of barbering defined  
8 by Section 1601.002(1) or cosmetology defined by Section  
9 1602.002(a) is performed.

10 (b) An applicant for a dual barber and beauty shop license  
11 must submit:

12 (1) an application on a department-approved form that  
13 is verified by the applicant;

14 (2) proof that the applicant meets the applicable  
15 requirements under Chapters 1601 and 1602 for obtaining a  
16 barbershop permit and a beauty shop license; and

17 (3) the required license fee.

18 (c) The department shall issue a dual barber and beauty shop  
19 license to an applicant that:

20 (1) meets the requirements under this chapter and  
21 Chapters 1601 and 1602;

22 (2) complies with commission rules; and

23 (3) pays the required fees.

24 (d) The holder of a dual barber and beauty shop license must  
25 comply with this chapter, Chapters 1601 and 1602, and commission  
26 rules related to barbering and cosmetology.

27 SECTION 19. Section 1603.352, Occupations Code, is amended

to read as follows:

Sec. 1603.352. STERILIZATION ~~[SANITATION]~~ REQUIREMENTS FOR CERTAIN SERVICES. (a) A person who holds a license, certificate, or permit issued under this chapter, Chapter 1601, or Chapter 1602 and who performs a barbering service described by Section 1601.002(1)(E) or (F) or a cosmetology service described by Section 1602.002(a)(10) or (11) ~~[1602.002(10) or (11)]~~:

~~[(1)]~~ shall, before performing the service, clean, disinfect, and sterilize with an autoclave or a dry heat, ultraviolet, or other department-approved sterilizer, in accordance with the sterilizer manufacturer's instructions, each metal [nondisposable] instrument, including metal nail clippers, cuticle pushers, cuticle nippers, and other metal instruments, used to perform the service~~[, and~~

~~[(2) may use a disposable supply or instrument only if that supply or instrument is purchased at the location where the service is performed or provided by the person on whom the service is performed].~~

(b) The owner or manager of a barber shop, barber school, beauty shop, specialty shop, ~~[or]~~ beauty culture school, or other facility licensed under this chapter, Chapter 1601, or Chapter 1602, is responsible for providing an autoclave or a dry heat, ultraviolet, or other department-approved sterilizer for use in the shop or school as required by Subsection (a). An autoclave or a dry heat, ultraviolet, or other department-approved sterilizer used as required by Subsection (a) must be~~[,~~

~~[(1) registered and]~~ listed with the United States



1 ~~[federal] Food and Drug Administration[, and~~  
2 ~~(2) used in accordance with the manufacturer's~~  
3 ~~instructions].~~

4 (c) Each sterilized instrument must be stored in accordance  
5 with the manufacturer's instructions.

6 (d) This section does not apply to:

7 (1) single-use instruments; or

8 (2) nonmetal nail files, buffer blocks, pumice stones,  
9 nail brushes, or other similar instruments.

10 (e) The commission may adopt rules to administer this  
11 section.

12 SECTION 20. Subchapter J, Chapter 1603, Occupations Code,  
13 is amended by adding Sections 1603.455 and 1603.456 to read as  
14 follows:

15 Sec. 1603.455. EMERGENCY ORDERS. (a) The executive  
16 director may issue an emergency order to suspend or revoke a license  
17 or permit issued, or to cease the operation of an unsafe facility  
18 regulated, by the department under this title if the executive  
19 director determines that an emergency exists requiring immediate  
20 action to protect the public health and safety.

21 (b) The executive director may issue the emergency order  
22 with or without notice and hearing as the executive director  
23 considers practicable under the circumstances.

24 (c) If an emergency order is issued under this section  
25 without a hearing, the executive director, not later than the 10th  
26 day after the date the emergency order was issued, shall set the  
27 time and place for a hearing conducted by the State Office of

1 Administrative Hearings to affirm, modify, or set aside the  
2 emergency order. The executive director shall set the hearing for a  
3 date not later than the 30th day after the date the time and place  
4 for the hearing are set. The hearing examiner shall affirm the  
5 order to the extent that reasonable cause existed to issue the  
6 order.

7 (d) The commission by rule may prescribe procedures for the  
8 issuance and appeal of an emergency order under this section,  
9 including a rule to allow the commission to affirm, modify, or set  
10 aside a decision by the State Office of Administrative Hearings  
11 under Subsection (c).

12 (e) A proceeding under this section is a contested case  
13 under Chapter 2001, Government Code.

14 Sec. 1603.456. CEASE AND DESIST ORDERS. The executive  
15 director may issue a cease and desist order, after notice and  
16 opportunity for hearing, if the executive director determines that  
17 the order is necessary to prevent a violation of:

18 (1) this chapter, Chapter 1601, or Chapter 1602; or

19 (2) a rule adopted by the commission.

20 SECTION 21. Sections 1601.506, 1602.266(c), and 1602.408,  
21 Occupations Code, are repealed.

22 SECTION 22. (a) The Texas Department of Licensing and  
23 Regulation shall issue a hair braiding specialty certificate of  
24 registration under Section 1601.259, Occupations Code, as added by  
25 this Act, to an applicant qualified under this section who:

26 (1) applies for a certificate of registration under  
27 this section not later than October 1, 2007;

1           (2) has the experience required by this section; and

2           (3) pays the application fee.

3           (b) An applicant for a hair braiding specialty certificate  
4 of registration under this section is required to have practiced  
5 hair braiding in this state for at least 10 years before the  
6 regulation of hair braiding by Chapter 267, Acts of the 75th  
7 Legislature, Regular Session, 1997.

8           (c) This section expires on October 31, 2007.

9           SECTION 23. Not later than January 1, 2008, the Texas  
10 Commission of Licensing and Regulation shall adopt rules necessary  
11 to implement the changes in law made by this Act, including rules to  
12 administer:

13           (1) Sections 1601.258 and 1601.259, Occupations Code,  
14 as added by this Act, related to eligibility for hair weaving and  
15 hair braiding specialty certificates;

16           (2) Section 1602.354, Occupations Code, as amended by  
17 this Act, related to continuing education and renewal requirements;

18           (3) Sections 1602.466 and 1603.258, Occupations Code,  
19 as added by this Act, related to the requirement that an applicant  
20 for a cosmetologist examination may not owe tuition to a beauty  
21 culture school; and

22           (4) Section 1603.205, Occupations Code, as added by  
23 this Act, related to dual barber and beauty shop licenses.

24           SECTION 24. The changes in law made by this Act apply only  
25 to an application for the issuance or renewal of a license, permit,  
26 or certificate that is filed with the Texas Department of Licensing  
27 and Regulation on or after the effective date of this Act. An

1 application for the issuance or renewal of a license, permit, or  
2 certificate that is filed before the effective date of this Act is  
3 governed by the law in effect on the date the application was filed,  
4 and the former law is continued in effect for that purpose.

5 SECTION 25. Notwithstanding Section 1603.205, Occupations  
6 Code, as added by this Act, the Texas Department of Licensing and  
7 Regulation may not issue a license under that section before May 1,  
8 2008.

9 SECTION 26. (a) Except as provided by Subsection (b) of  
10 this section, this Act takes effect immediately if it receives a  
11 vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2007.

15 (b) Sections 1602.466 and 1603.258, Occupations Code, as  
16 added by this Act, take effect April 1, 2008.

# HOUSE ENGROSSMENT

By: Chisum, Deshotel, Hopson, Harper-Brown,  
Farabee

H.B. No. 2106

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of barbering and cosmetology.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1601.002, Occupations Code, is amended to read as follows:

Sec. 1601.002. DEFINITION OF BARBERING. In this chapter, "barbering," "practicing barbering," or the "practice of barbering" means:

(1) performing or offering or attempting to perform for compensation or the promise of compensation any of the following services:

(A) treating a person's mustache or beard by arranging, beautifying, coloring, processing, shaving, styling, or trimming;

(B) treating a person's hair by:

(i) arranging, beautifying, bleaching, cleansing, coloring, curling, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, tinting, or waving;

(ii) providing a necessary service that is preparatory or ancillary to a service under Subparagraph (i), including bobbing, clipping, cutting, or trimming; or

(iii) cutting the person's hair as a separate and independent service for which a charge is directly or

1 indirectly made separately from a charge for any other service;

2 (C) cleansing, stimulating, or massaging a  
3 person's scalp, face, neck, arms, or shoulders:

4 (i) by hand or by using a device, apparatus,  
5 or appliance; and

6 (ii) with or without the use of any cosmetic  
7 preparation, antiseptic, tonic, lotion, or cream;

8 (D) beautifying a person's face, neck, arms, or  
9 shoulders using a cosmetic preparation, antiseptic, tonic, lotion,  
10 powder, oil, clay, cream, or appliance;

11 (E) treating a person's nails by:

12 (i) cutting, trimming, polishing, tinting,  
13 coloring, cleansing, manicuring, or pedicuring; or

14 (ii) attaching false nails;

15 (F) massaging, cleansing, treating, or  
16 beautifying a person's hands;

17 (G) administering facial treatments;

18 (H) weaving a person's hair by using any method  
19 to attach commercial hair to a person's hair or scalp;

20 (I) shampooing or conditioning a person's hair;

21 [~~or~~]

22 (J) servicing in any manner listed in Paragraph  
23 (B) a person's wig, toupee, or artificial hairpiece on a person's  
24 head or on a block after the initial retail sale; or

25 (K) braiding a person's hair, trimming hair  
26 extensions only as applicable to the braiding process, and  
27 attaching commercial hair only by braiding and without the use of

1 chemicals or adhesives;

2 (2) advertising or representing to the public in any  
3 manner that a person is a barber or is authorized to practice  
4 barbering; or

5 (3) advertising or representing to the public in any  
6 manner that a location or place of business is a barbershop,  
7 specialty shop, or barber school.

8 SECTION 2. Section 1601.253(b), Occupations Code, is  
9 amended to read as follows:

10 (b) The department shall issue a Class A barber certificate  
11 to an applicant who:

12 (1) complies with the application requirements of this  
13 chapter;

14 (2) passes the applicable examination [~~with an average~~  
15 ~~grade of at least 75 percent~~];

16 (3) pays the required fee; and

17 (4) possesses the other qualifications required by  
18 this chapter.

19 SECTION 3. Subchapter F, Chapter 1601, Occupations Code, is  
20 amended by adding Sections 1601.258 and 1601.259 to read as  
21 follows:

22 Sec. 1601.258. ELIGIBILITY FOR HAIR WEAVING SPECIALTY  
23 CERTIFICATE OF REGISTRATION. (a) A person holding a hair weaving  
24 specialty certificate of registration may perform only barbering as  
25 defined by Section 1601.002(1)(H).

26 (b) An applicant for a hair weaving specialty certificate of  
27 registration must:

1           (1) be at least 17 years of age; and

2           (2) satisfy the requirements specified by the  
3 department, including training through a commission-approved  
4 training program.

5           (c) The department shall issue a hair weaving specialty  
6 certificate of registration to an applicant who:

7           (1) possesses the qualifications described by  
8 Subsection (b);

9           (2) pays the required registration fee; and

10           (3) has not committed an act that constitutes a ground  
11 for denial of the certificate.

12           Sec. 1601.259. ELIGIBILITY FOR HAIR BRAIDING SPECIALTY  
13 CERTIFICATE OF REGISTRATION. (a) A person holding a hair braiding  
14 specialty certificate of registration may perform only barbering as  
15 defined by Section 1601.002(1)(K).

16           (b) An applicant for a hair braiding specialty certificate  
17 must:

18           (1) be at least 17 years of age; and

19           (2) satisfy the requirements specified by the  
20 department, including training through a commission-approved  
21 training program.

22           (c) The department shall issue a hair braiding specialty  
23 certificate of registration to an applicant who:

24           (1) possesses the qualifications described by  
25 Subsection (b);

26           (2) pays the required registration fee; and

27           (3) has not committed an act that constitutes a ground



for denial of the certificate.

SECTION 4. Section 1601.303, Occupations Code, is amended to read as follows:

Sec. 1601.303. ISSUANCE OF BARBERSHOP PERMIT. The department shall issue a barbershop permit to an applicant if:

- (1) the applicant owns the barbershop; ~~[and]~~.
- (2) the applicant verifies the application; and
- (3) the shop meets the minimum health standards for barbershops set by the commission and complies with all other commission rules.

SECTION 5. Sections 1601.304 and 1601.305, Occupations Code, are amended to read as follows:

Sec. 1601.304. ~~[MANICURIST]~~ SPECIALTY SHOP PERMIT. (a) A person who holds a ~~[manicurist]~~ specialty shop permit may maintain an establishment in which only barbering as defined by Section ~~[Sections]~~ 1601.002(1)(E), ~~[and]~~ (F), (H), or (K) is performed. ~~[A manicurist specialty shop may be operated only under the direction of a person who holds a manicurist license.]~~

(b) An applicant for a ~~[manicurist]~~ specialty shop permit must submit:

- (1) an application on a department-approved form ~~[that includes:~~

- ~~[(A) the shop's address,~~
- ~~[(B) the legal description of the premises for which the permit is sought, and~~
- ~~[(C) any other information required by the department]; and~~

(2) the required inspection fee.

~~[(c) As soon as practicable after receipt of the application and fee, the department shall issue a temporary manicurist specialty shop permit to the applicant. The applicant may operate the applicant's shop under the temporary permit until a permanent permit is issued.]~~

Sec. 1601.305. ISSUANCE OF [MANICURIST] SPECIALTY SHOP PERMIT. The department shall issue a ~~[permanent manicurist]~~ specialty shop permit to an applicant if:

(1) the applicant submits proof that the applicant satisfies the requirements established by the commission for a specialty shop ~~[holds a manicurist license]; [and]~~

(2) the applicant pays the required inspection fee and permit fee;

(3) the applicant verifies the application and the application complies with commission rules; and

(4) the applicant has not committed an act that constitutes a ground for denial of a permit, certificate, or license under this chapter ~~[the shop meets the minimum health standards for manicurist specialty shops set by the commission, as determined by a department inspection under Section 1603.103, and any other requirements imposed by commission rule].~~

SECTION 6. Section 1601.353(a), Occupations Code, is amended to read as follows:

(a) The department may not approve an application for a permit for a barber school that provides training leading to issuance of a Class A barber certificate unless the school has:

1           (1) a [~~an adequate school site housed in a~~  
2 ~~substantial~~] building of permanent construction containing at  
3 least 2,800 square feet of floor space, divided into at least:

4                   (A) a senior department;

5                   (B) a junior department;

6                   (C) a class theory room;

7                   (D) a supply room;

8                   (E) an office space; and

9                   (F) [~~a dressing and cloak room; and~~

10                   [~~(G) two sanitary, modern,~~] separate restrooms  
11 for male and female students[~~, each equipped with one commode and~~  
12 ~~one of which is also equipped with a urinal~~];

13           (2) a hard-surface floor-covering of tile or other  
14 suitable material;

15           (3) at least 20 modern barber chairs, including a  
16 cabinet and mirror for each chair;

17           (4) a sink for [~~lavatory behind~~] every two barber  
18 chairs;

19                   (5) a liquid sterilizer for each barber chair;

20           (6) an adequate number of latherers, vibrators, and  
21 hair dryers for student use;

22                   (7) adequate lighting for each room;

23           (8) at least 20 classroom chairs, a blackboard,  
24 anatomical charts of the head, neck, and face, and one barber chair  
25 in the class theory room;

26           (9) [~~a library with library facilities available to~~  
27 ~~students containing~~] at least one medical dictionary and a standard

work on human anatomy;

(10) adequate drinking fountain facilities, with at least one for each floor; and

(11) at least one fire extinguisher [~~adequate toilet facilities for the students, and~~

~~(12) adequate fire-fighting equipment~~].

SECTION 7. Section 1601.453, Occupations Code, is amended to read as follows:

Sec. 1601.453. LOCATION OF PRACTICE. A person licensed by the department may practice barbering only at a location for which the department has issued a barbershop permit, specialty shop permit, or barber school permit under this chapter or a permit issued under Chapter 1603.

SECTION 8. Section 1602.256, Occupations Code, is amended to read as follows:

Sec. 1602.256. ELIGIBILITY FOR A MANICURIST SPECIALTY LICENSE. (a) A person holding a manicurist specialty license may perform only the practice of cosmetology defined in Section 1602.002(a)(10) or (11) [~~1602.002(9) or (10)~~].

(b) To be eligible for a manicurist specialty license, an applicant must:

(1) be at least 17 years of age;

(2) have obtained a high school diploma or the equivalent of a high school diploma or have passed a valid examination administered by a certified testing agency that measures the person's ability to benefit from training; and

(3) have completed 600 hours of instruction in

manicuring through a commission-approved training program.

SECTION 9. Section 1602.257(a), Occupations Code, is amended to read as follows:

(a) A person holding a facialist specialty license may perform only the practice of cosmetology defined in Sections 1602.002(a)(6) through (9) [~~Section 1602.002(7)~~].

SECTION 10. Section 1602.258, Occupations Code, is amended to read as follows:

Sec. 1602.258. ELIGIBILITY FOR A SPECIALTY CERTIFICATE. (a) A person holding a specialty certificate may perform only the practice of cosmetology defined in Sections 1602.002(a)(2) through (4) [~~Section 1602.002(2), (3), (4), or (7)~~].

(b). To be eligible for a specialty certificate, an applicant must:

(1) be at least 17 years of age; and

(2) [~~have obtained a high school diploma or the equivalent of a high school diploma or have passed a valid examination administered by a certified testing agency that measures the person's ability to benefit from training; and~~

~~[(3)]~~ have the necessary requisites as determined by the department in the particular specialty for which certification is sought, including training through a commission-approved training program.

SECTION 11. Section 1602.262(a), Occupations Code, is amended to read as follows:

(a) An applicant for an operator license, instructor license, manicurist specialty license, or facialist specialty

license is entitled to the license if the applicant:

- (1) meets the applicable eligibility requirements;
- (2) passes the applicable examination;
- (3) pays the required fee; and
- (4) has not committed an act that constitutes a ground for denial of the license.

SECTION 12. Section 1602.303(b), Occupations Code, is amended to read as follows:

(b) An application for a private beauty culture school license must be accompanied by the required license fee and inspection fee and:

- (1) be on a form prescribed by the department;
- (2) be verified by the applicant; and
- (3) ~~[contain a detailed floor plan of the school building divided into two separate areas, one area for instruction in theory and one area for clinic work; and~~

~~[(4)]~~ contain a statement that the building:

- (A) ~~[is fireproof,~~
- ~~[(B)]~~ is of permanent construction and is divided into at least two separate areas:

- (i) one area for instruction in theory; and
- (ii) one area for clinic work;
- (B) ~~[(C)]~~ contains a minimum of 3,500 square feet of floor space;
- (C) ~~[(D)]~~ has separate restrooms for male and female students; and
- (D) ~~[(E)]~~ contains, or will contain before

1 classes begin, the equipment established by commission rule as  
2 sufficient to properly instruct a minimum of 50 students.

3 SECTION 13. Section 1602.354, Occupations Code, is amended  
4 to read as follows:

5 Sec. 1602.354. CONTINUING EDUCATION. (a) The commission  
6 will by rule recognize, prepare, or administer continuing education  
7 programs for the practice of cosmetology. Participation in the  
8 programs is mandatory for all license renewals.

9 (b) The commission may only require a license holder to  
10 complete continuing education of not more than four hours in health  
11 and safety courses if the license holder:

12 (1) is at least 65 years of age; and

13 (2) has held a cosmetology license for at least 15  
14 years.

15 SECTION 14. Section 1602.403(a), Occupations Code, is  
16 amended to read as follows:

17 (a) A private beauty culture school may not employ:

18 (1) a person holding an operator license, manicurist  
19 specialty license, or specialty certificate solely to perform the  
20 practices of cosmetology for which the person is licensed or  
21 certified; or

22 (2) a person holding an instructor license to perform  
23 any act or practice of cosmetology.

24 SECTION 15. Section 1603.103, Occupations Code, is amended  
25 to read as follows:

26 Sec. 1603.103. INSPECTION OF SCHOOLS [~~—SHOPS, —AND~~  
27 ~~FACILITIES~~] BEFORE OPERATION. (a) Until the department

1 determines, by inspection, that the person has established the  
2 school[, ~~shop, or facility~~] in compliance with this chapter,  
3 Chapter 1601, or Chapter 1602, a person may not operate a school[,  
4 ~~shop, or other facility~~] licensed or permitted under this chapter,  
5 Chapter 1601, or Chapter 1602.

6 (b) A school[, ~~shop, or other facility~~] that is not approved  
7 by the department on initial inspection may be reinspected.

8 (c) The department may charge the school[, ~~shop, or other~~  
9 ~~facility shall pay~~] a fee for each inspection. The commission shall  
10 by rule set the amount of the fee.

11 SECTION 16. Sections 1603.104(b) and (e), Occupations Code,  
12 are amended to read as follows:

13 (b) At least once every two years, the department shall  
14 inspect each [~~school,~~] shop[,~~]~~ or other facility that holds a  
15 license, certificate, or permit in which the practice of barbering  
16 or cosmetology is performed under this chapter, Chapter 1601, or  
17 Chapter 1602, and at least twice per year, the department shall  
18 inspect each school in which barbering or cosmetology is taught  
19 under this chapter, Chapter 1601, or Chapter 1602.

20 (e) The department may charge the school, shop, or other  
21 facility [~~shall pay~~] a fee for each inspection performed under this  
22 section [~~Subsection (c)~~]. The commission shall by rule set the  
23 amount of the fee.

24 SECTION 17. Subchapter C, Chapter 1603, Occupations Code,  
25 is amended by adding Section 1603.1045 to read as follows:

26 Sec. 1603.1045. CONTRACT TO PERFORM INSPECTIONS. The  
27 department may contract with a person to perform for the department



1 inspections of a school, shop, or other facility under this  
2 chapter, Chapter 1601, or Chapter 1602.

3 SECTION 18. Subchapter E, Chapter 1603, Occupations Code,  
4 is amended by adding Section 1603.205 to read as follows:

5 Sec. 1603.205. DUAL BARBER AND BEAUTY SHOP LICENSE. (a) A  
6 person holding a dual barber and beauty shop license may own,  
7 operate, or manage a shop in which any practice of barbering defined  
8 by Section 1601.002(1) or cosmetology defined by Section  
9 1602.002(a) is performed.

10 (b) An applicant for a dual barber and beauty shop license  
11 must submit:

12 (1) an application on a department-approved form that  
13 is verified by the applicant;

14 (2) proof that the applicant meets the applicable  
15 requirements under Chapters 1601 and 1602 for obtaining a  
16 barbershop permit and a beauty shop license; and

17 (3) the required license fee.

18 (c) The department shall issue a dual barber and beauty shop  
19 license to an applicant that:

20 (1) meets the requirements under this chapter and  
21 Chapters 1601 and 1602;

22 (2) complies with commission rules; and

23 (3) pays the required fees.

24 (d) The holder of a dual barber and beauty shop license must  
25 comply with this chapter, Chapters 1601 and 1602, and commission  
26 rules related to barbering and cosmetology.

27 SECTION 19. Section 1603.352, Occupations Code, is amended

to read as follows:

Sec. 1603.352. STERILIZATION ~~[SANITATION]~~ REQUIREMENTS FOR CERTAIN SERVICES. (a) A person who holds a license, certificate, or permit issued under this chapter, Chapter 1601, or Chapter 1602 and who performs a barbering service described by Section 1601.002(1)(E) or (F) or a cosmetology service described by Section 1602.002(a)(10) or (11) ~~[1602.002(10) or (11)]~~:

~~[(1)]~~ shall, before performing the service, clean, disinfect, and sterilize with an autoclave or a dry heat, ultraviolet, or other department-approved sterilizer, in accordance with the sterilizer manufacturer's instructions, each metal [nondisposable] instrument, including metal nail clippers, cuticle pushers, cuticle nippers, and other metal instruments, used to perform the service~~[, and~~

~~[(2) may use a disposable supply or instrument only if that supply or instrument is purchased at the location where the service is performed or provided by the person on whom the service is performed].~~

(b) The owner or manager of a barber shop, barber school, beauty shop, specialty shop, ~~[or]~~ beauty culture school, or other facility licensed under this chapter, Chapter 1601, or Chapter 1602, is responsible for providing an autoclave or a dry heat, ultraviolet, or other department-approved sterilizer for use in the shop or school as required by Subsection (a). An autoclave or a dry heat, ultraviolet, or other department-approved sterilizer used as required by Subsection (a) must be~~[,~~

~~[(1) registered and]~~ listed with the United States

1 ~~[federal]~~ Food and Drug Administration~~[-, and~~

2 ~~[(2) used in accordance with the manufacturer's~~  
3 ~~instructions].~~

4 (c) Each sterilized instrument must be stored in accordance  
5 with the manufacturer's instructions.

6 (d) This section does not apply to:

7 (1) single-use instruments; or

8 (2) nonmetal nail files, buffer blocks, pumice stones,  
9 nail brushes, or other similar instruments.

10 (e) The commission may adopt rules to administer this  
11 section.

12 SECTION 20. Subchapter J, Chapter 1603, Occupations Code,  
13 is amended by adding Sections 1603.455 and 1603.456 to read as  
14 follows:

15 Sec. 1603.455. EMERGENCY ORDERS. (a) The executive  
16 director may issue an emergency order to suspend or revoke a license  
17 or permit issued, or to cease the operation of an unsafe facility  
18 regulated, by the department under this title if the executive  
19 director determines that an emergency exists requiring immediate  
20 action to protect the public health and safety.

21 (b) The executive director may issue the emergency order  
22 with or without notice and hearing as the executive director  
23 considers practicable under the circumstances.

24 (c) If an emergency order is issued under this section  
25 without a hearing, the executive director, not later than the 10th  
26 day after the date the emergency order was issued, shall set the  
27 time and place for a hearing conducted by the State Office of

1 Administrative Hearings to affirm, modify, or set aside the  
2 emergency order. The executive director shall set the hearing for a  
3 date not later than the 30th day after the date the time and place  
4 for the hearing are set. The hearing examiner shall affirm the  
5 order to the extent that reasonable cause existed to issue the  
6 order.

7 (d) The commission by rule may prescribe procedures for the  
8 issuance and appeal of an emergency order under this section,  
9 including a rule to allow the commission to affirm, modify, or set  
10 aside a decision by the State Office of Administrative Hearings  
11 under Subsection (c).

12 (e) A proceeding under this section is a contested case  
13 under Chapter 2001, Government Code.

14 Sec. 1603.456. CEASE AND DESIST ORDERS. The executive  
15 director may issue a cease and desist order, after notice and  
16 opportunity for hearing, if the executive director determines that  
17 the order is necessary to prevent a violation of:

18 (1) this chapter, Chapter 1601, or Chapter 1602; or

19 (2) a rule adopted by the commission.

20 SECTION 21. Sections 1601.506, 1602.266(c), and 1602.408,  
21 Occupations Code, are repealed.

22 SECTION 22. (a) The Texas Department of Licensing and  
23 Regulation shall issue a hair braiding specialty certificate of  
24 registration under Section 1601.259, Occupations Code, as added by  
25 this Act, to an applicant qualified under this section who:

26 (1) applies for a certificate of registration under  
27 this section not later than October 1, 2007;

1           (2) has the experience required by this section; and

2           (3) pays the application fee.

3           (b) An applicant for a hair braiding specialty certificate  
4 of registration under this section is required to have practiced  
5 hair braiding in this state for at least 10 years before the  
6 regulation of hair braiding by Chapter 267, Acts of the 75th  
7 Legislature, Regular Session, 1997.

8           (c) This section expires on October 31, 2007.

9           SECTION 23. Not later than January 1, 2008, the Texas  
10 Commission of Licensing and Regulation shall adopt rules necessary  
11 to implement the changes in law made by this Act, including rules to  
12 administer:

13           (1) Sections 1601.258 and 1601.259, Occupations Code,  
14 as added by this Act, related to eligibility for hair weaving and  
15 hair braiding specialty certificates;

16           (2) Section 1602.354, Occupations Code, as amended by  
17 this Act, related to continuing education and renewal requirements;

18           (3) Sections 1602.466 and 1603.258, Occupations Code,  
19 as added by this Act, related to the requirement that an applicant  
20 for a cosmetologist examination may not owe tuition to a beauty  
21 culture school; and

22           (4) Section 1603.205, Occupations Code, as added by  
23 this Act, related to dual barber and beauty shop licenses.

24           SECTION 24. The changes in law made by this Act apply only  
25 to an application for the issuance or renewal of a license, permit,  
26 or certificate that is filed with the Texas Department of Licensing  
27 and Regulation on or after the effective date of this Act. An

1 application for the issuance or renewal of a license, permit, or  
2 certificate that is filed before the effective date of this Act is  
3 governed by the law in effect on the date the application was filed,  
4 and the former law is continued in effect for that purpose.

5 SECTION 25. Notwithstanding Section 1603.205, Occupations  
6 Code, as added by this Act, the Texas Department of Licensing and  
7 Regulation may not issue a license under that section before May 1,  
8 2008.

9 SECTION 26. (a) Except as provided by Subsection (b) of  
10 this section, this Act takes effect immediately if it receives a  
11 vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2007.

15 (b) Sections 1602.466 and 1603.258, Occupations Code, as  
16 added by this Act, take effect April 1, 2008.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**April 2, 2007**

**TO:** Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB2106** by Chisum (relating to the regulation of barbering and cosmetology. ), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Occupations Code relating to the regulation of barbering and cosmetology. The bill would provide for the establishment of the hair weaving specialty certificate of registration, the hair braiding specialty certificate of registration, and establish a dual barber and beauty shop license. The bill would limit the continuing education requirements for cosmetology licensees age 65 and older with at least 15 years of licensure. The bill would require the Department of Licensing and Regulation (TDLR) to verify each applicant for the cosmetologist examination has paid all tuition owed to the school. The bill would give the Executive Director of TDLR the authority to issue an emergency order to suspend or revoke a license or permit issued to barbers, cosmetologists, and related occupations; and allow the Executive Director of TDLR to issue a cease and desist order under certain circumstances.

Based on information provided by TDLR, it is assumed that costs related to the duties and responsibilities associated with implementing the provisions of the bill could be covered by utilizing existing resources.

The provisions providing for the eligibility of the specialty certificate and the eligibility for the cosmetologist examination would take effect April 1, 2008. The remaining provisions of the bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2007.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 452 Department of Licensing and Regulation

**LBB Staff:** JOB, JRO, AH

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 26, 2007**

**TO:** Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB2106** by Chisum (Relating to the regulation of barbering and cosmetology.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Occupations Code relating to the regulation of barbering and cosmetology. The bill would provide for the establishment of the hair weaving specialty certificate of registration, the hair braiding specialty certificate of registration, and establish a dual barber and beauty shop license.

Based on information provided by the Department of Licensing and Regulation, it is assumed that costs related to the duties and responsibilities associated with implementing the provisions of the bill could be covered by utilizing existing resources.

The provisions providing for the dual barber and beauty shop license would take effect May 1, 2008. The remaining provisions of the bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2007.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 452 Department of Licensing and Regulation

**LBB Staff:** JOB, JRO, AH



SECOND READING  
ENGROSSMENT

By: Chisum, Deshotel, Hopson

H.B. No. 2106

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of barbering and cosmetology.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1601.002, Occupations Code, is amended to read as follows:

Sec. 1601.002. DEFINITION OF BARBERING. In this chapter, "barbering," "practicing barbering," or the "practice of barbering" means:

(1) performing or offering or attempting to perform for compensation or the promise of compensation any of the following services:

(A) treating a person's mustache or beard by arranging, beautifying, coloring, processing, shaving, styling, or trimming;

(B) treating a person's hair by:

(i) arranging, beautifying, bleaching, cleansing, coloring, curling, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, tinting, or waving;

(ii) providing a necessary service that is preparatory or ancillary to a service under Subparagraph (i), including bobbing, clipping, cutting, or trimming; or

(iii) cutting the person's hair as a separate and independent service for which a charge is directly or

1 indirectly made separately from a charge for any other service;

2 (C) cleansing, stimulating, or massaging a  
3 person's scalp, face, neck, arms, or shoulders:

4 (i) by hand or by using a device, apparatus,  
5 or appliance; and

6 (ii) with or without the use of any cosmetic  
7 preparation, antiseptic, tonic, lotion, or cream;

8 (D) beautifying a person's face, neck, arms, or  
9 shoulders using a cosmetic preparation, antiseptic, tonic, lotion,  
10 powder, oil, clay, cream, or appliance;

11 (E) treating a person's nails by:

12 (i) cutting, trimming, polishing, tinting,  
13 coloring, cleansing, manicuring, or pedicuring; or

14 (ii) attaching false nails;

15 (F) massaging, cleansing, treating, or  
16 beautifying a person's hands;

17 (G) administering facial treatments;

18 (H) weaving a person's hair by using any method  
19 to attach commercial hair to a person's hair or scalp;

20 (I) shampooing or conditioning a person's hair;

21 [~~ex~~]

22 (J) servicing in any manner listed in Paragraph

23 (B) a person's wig, toupee, or artificial hairpiece on a person's  
24 head or on a block after the initial retail sale; or

25 (K) braiding a person's hair, trimming hair  
26 extensions only as applicable to the braiding process, and  
27 attaching commercial hair only by braiding and without the use of

1 chemicals or adhesives;

2 (2) advertising or representing to the public in any  
3 manner that a person is a barber or is authorized to practice  
4 barbering; or

5 (3) advertising or representing to the public in any  
6 manner that a location or place of business is a barbershop,  
7 specialty shop, or barber school.

8 SECTION 2. Section 1601.253(b), Occupations Code, is  
9 amended to read as follows:

10 (b) The department shall issue a Class A barber certificate  
11 to an applicant who:

12 (1) complies with the application requirements of this  
13 chapter;

14 (2) passes the applicable examination [~~with an average~~  
15 ~~grade of at least 75 percent~~];

16 (3) pays the required fee; and

17 (4) possesses the other qualifications required by  
18 this chapter.

19 SECTION 3. Subchapter F, Chapter 1601, Occupations Code, is  
20 amended by adding Sections 1601.258 and 1601.259 to read as  
21 follows:

22 Sec. 1601.258. ELIGIBILITY FOR HAIR WEAVING SPECIALTY  
23 CERTIFICATE OF REGISTRATION. (a) A person holding a hair weaving  
24 specialty certificate of registration may perform only barbering as  
25 defined by Section 1601.002(1)(H).

26 (b) An applicant for a hair weaving specialty certificate of  
27 registration must:

1           (1) be at least 17 years of age; and

2           (2) satisfy the requirements specified by the  
3 department, including training through a commission-approved  
4 training program.

5           (c) The department shall issue a hair weaving specialty  
6 certificate of registration to an applicant who:

7           (1) possesses the qualifications described by  
8 Subsection (b);

9           (2) pays the required registration fee; and

10           (3) has not committed an act that constitutes a ground  
11 for denial of the certificate.

12           Sec. 1601.259. ELIGIBILITY FOR HAIR BRAIDING SPECIALTY  
13 CERTIFICATE OF REGISTRATION. (a) A person holding a hair braiding  
14 specialty certificate of registration may perform only barbering as  
15 defined by Section 1601.002(1)(K).

16           (b) An applicant for a hair braiding specialty certificate  
17 must:

18           (1) be at least 17 years of age; and

19           (2) satisfy the requirements specified by the  
20 department, including training through a commission-approved  
21 training program.

22           (c) The department shall issue a hair braiding specialty  
23 certificate of registration to an applicant who:

24           (1) possesses the qualifications described by  
25 Subsection (b);

26           (2) pays the required registration fee; and

27           (3) has not committed an act that constitutes a ground

1 for denial of the certificate.

2 SECTION 4. Section 1601.303, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1601.303. ISSUANCE OF BARBERSHOP PERMIT. The  
5 department shall issue a barbershop permit to an applicant if:

- 6 (1) the applicant owns the barbershop; ~~and~~  
7 (2) the applicant verifies the application; and  
8 (3) the shop meets the minimum health standards for  
9 barbershops set by the commission and complies with all other  
10 commission rules.

11 SECTION 5. Sections 1601.304 and 1601.305, Occupations  
12 Code, are amended to read as follows:

13 Sec. 1601.304. ~~[MANICURIST]~~ SPECIALTY SHOP PERMIT. (a) A  
14 person who holds a ~~[manicurist]~~ specialty shop permit may maintain  
15 an establishment in which only barbering as defined by Section  
16 ~~[Sections]~~ 1601.002(1)(E), ~~and~~ (F), (H), or (K) is performed. ~~[A~~  
17 ~~manicurist specialty shop may be operated only under the direction~~  
18 ~~of a person who holds a manicurist license.]~~

19 (b) An applicant for a ~~[manicurist]~~ specialty shop permit  
20 must submit:

- 21 (1) an application on a department-approved form ~~[that~~  
22 ~~includes:~~

- 23 ~~[(A) the shop's address,~~  
24 ~~[(B) the legal description of the premises for~~  
25 ~~which the permit is sought, and~~

- 26 ~~[(C) any other information required by the~~  
27 ~~department]; and~~

(2) the required inspection fee.

~~[(c) As soon as practicable after receipt of the application and fee, the department shall issue a temporary manicurist specialty shop permit to the applicant. The applicant may operate the applicant's shop under the temporary permit until a permanent permit is issued.]~~

Sec. 1601.305. ISSUANCE OF [MANICURIST] SPECIALTY SHOP PERMIT. The department shall issue a [~~permanent manicurist~~] specialty shop permit to an applicant if:

(1) the applicant submits proof that the applicant satisfies the requirements established by the commission for a specialty shop [~~holds a manicurist license~~]; [~~and~~]

(2) the applicant pays the required inspection fee and permit fee;

(3) the applicant verifies the application and the application complies with commission rules; and

(4) the applicant has not committed an act that constitutes a ground for denial of a permit, certificate, or license under this chapter [~~the shop meets the minimum health standards for manicurist specialty shops set by the commission, as determined by a department inspection under Section 1603.103, and any other requirements imposed by commission rule~~].

SECTION 6. Section 1601.353(a), Occupations Code, is amended to read as follows:

(a) The department may not approve an application for a permit for a barber school that provides training leading to issuance of a Class A barber certificate unless the school has:

(1) a [~~an adequate school site housed in a substantial~~] building of permanent construction containing at least 2,800 square feet of floor space, divided into at least:

(A) a senior department;

(B) a junior department;

(C) a class theory room;

(D) a supply room;

(E) an office space; and

(F) [~~a dressing and cloak room, and~~

~~(G) two sanitary, modern,] separate restrooms for male and female students[, each equipped with one commode and one of which is also equipped with a urinal];~~

(2) a hard-surface floor-covering of tile or other suitable material;

(3) at least 20 modern barber chairs, including a cabinet and mirror for each chair;

(4) a sink for [~~lavatory behind~~] every two barber chairs;

(5) a liquid sterilizer for each barber chair;

(6) an adequate number of latherers, vibrators, and hair dryers for student use;

(7) adequate lighting for each room;

(8) at least 20 classroom chairs, a blackboard, anatomical charts of the head, neck, and face, and one barber chair in the class theory room;

(9) [~~a library with library facilities available to students containing~~] at least one medical dictionary and a standard

1 work on human anatomy;

2 (10) adequate drinking fountain facilities, with at  
3 least one for each floor; and

4 (11) at least one fire extinguisher [~~adequate~~  
5 ~~toilet facilities for the students, and~~

6 ~~[(12) adequate fire-fighting equipment]~~.

7 SECTION 7. Section 1601.453, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1601.453. LOCATION OF PRACTICE. A person licensed by  
10 the department may practice barbering only at a location for which  
11 the department has issued a barbershop permit, specialty shop  
12 permit, or barber school permit under this chapter or a permit  
13 issued under Chapter 1603.

14 SECTION 8. Section 1602.256, Occupations Code, is amended  
15 to read as follows:

16 Sec. 1602.256. ELIGIBILITY FOR A MANICURIST SPECIALTY  
17 LICENSE. (a) A person holding a manicurist specialty license may  
18 perform only the practice of cosmetology defined in Section  
19 1602.002(a)(10) or (11) [~~1602.002(9) or (10)]~~.

20 (b) To be eligible for a manicurist specialty license, an  
21 applicant must:

22 (1) be at least 17 years of age;

23 (2) have obtained a high school diploma or the  
24 equivalent of a high school diploma or have passed a valid  
25 examination administered by a certified testing agency that  
26 measures the person's ability to benefit from training; and

27 (3) have completed 600 hours of instruction in



1 manicuring through a commission-approved training program.

2 SECTION 9. Section 1602.257(a), Occupations Code, is  
3 amended to read as follows:

4 (a) A person holding a facialist specialty license may  
5 perform only the practice of cosmetology defined in Sections  
6 1602.002(a)(6) through (9) [~~Section 1602.002(7)~~].

7 SECTION 10. Section 1602.258, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1602.258. ELIGIBILITY FOR A SPECIALTY  
10 CERTIFICATE. (a) A person holding a specialty certificate may  
11 perform only the practice of cosmetology defined in Sections  
12 1602.002(a)(2) through (4) [~~Section 1602.002(2), (3), (4), or (7)~~].

13 (b) To be eligible for a specialty certificate, an applicant  
14 must:

15 (1) be at least 17 years of age; and

16 (2) [~~have obtained a high school diploma or the~~  
17 ~~equivalent of a high school diploma or have passed a valid~~  
18 ~~examination administered by a certified testing agency that~~  
19 ~~measures the person's ability to benefit from training; and~~

20 [(3)] have the necessary requisites as determined by  
21 the department in the particular specialty for which certification  
22 is sought, including training through a commission-approved  
23 training program.

24 SECTION 11. Section 1602.262(a), Occupations Code, is  
25 amended to read as follows:

26 (a) An applicant for an operator license, instructor  
27 license, manicurist specialty license, or facialist specialty

license is entitled to the license if the applicant:

- (1) meets the applicable eligibility requirements;
- (2) passes the applicable examination;
- (3) pays the required fee; and
- (4) has not committed an act that constitutes a ground for denial of the license.

SECTION 12. Section 1602.303(b), Occupations Code, is amended to read as follows:

(b) An application for a private beauty culture school license must be accompanied by the required license fee and inspection fee and:

- (1) be on a form prescribed by the department;
- (2) be verified by the applicant; and
- (3) ~~[contain a detailed floor plan of the school building divided into two separate areas, one area for instruction in theory and one area for clinic work, and~~

~~[(4)]~~ contain a statement that the building:

- (A) ~~[is fireproof,~~
- ~~[(B)]~~ is of permanent construction and is divided into at least two separate areas:

- (i) one area for instruction in theory; and
- (ii) one area for clinic work;
- (B) ~~[(C)]~~ contains a minimum of 3,500 square feet of floor space;
- (C) ~~[(D)]~~ has separate restrooms for male and female students; and
- (D) ~~[(E)]~~ contains, or will contain before

1 classes begin, the equipment established by commission rule as  
2 sufficient to properly instruct a minimum of 50 students.

3 SECTION 13. Section 1602.354, Occupations Code, is amended  
4 to read as follows:

5 Sec. 1602.354. CONTINUING EDUCATION. (a) The commission  
6 will by rule recognize, prepare, or administer continuing education  
7 programs for the practice of cosmetology. Participation in the  
8 programs is mandatory for all license renewals.

9 (b) The commission may only require a license holder to  
10 complete continuing education of not more than four hours in health  
11 and safety courses if the license holder:

12 (1) is at least 65 years of age; and

13 (2) has held a cosmetology license for at least 15  
14 years.

15 SECTION 14. Section 1602.403(a), Occupations Code, is  
16 amended to read as follows:

17 (a) A private beauty culture school may not employ:

18 (1) a person holding an operator license, manicurist  
19 specialty license, or specialty certificate solely to perform the  
20 practices of cosmetology for which the person is licensed or  
21 certified; or

22 (2) a person holding an instructor license to perform  
23 any act or practice of cosmetology.

24 SECTION 15. Section 1603.103, Occupations Code, is amended  
25 to read as follows:

26 Sec. 1603.103. INSPECTION OF SCHOOLS [~~7~~ ~~SHOPS~~ ~~AND~~  
27 ~~FACILITIES~~] BEFORE OPERATION. (a) Until the department

1 determines, by inspection, that the person has established the  
2 school[, ~~shop, or facility~~] in compliance with this chapter,  
3 Chapter 1601, or Chapter 1602, a person may not operate a school[,  
4 ~~shop, or other facility~~] licensed or permitted under this chapter,  
5 Chapter 1601, or Chapter 1602.

6 (b) A school[, ~~shop, or other facility~~] that is not approved  
7 by the department on initial inspection may be reinspected.

8 (c) The department may charge the school[, ~~shop, or other~~  
9 ~~facility shall pay~~] a fee for each inspection. The commission shall  
10 by rule set the amount of the fee.

11 SECTION 16. Sections 1603.104(b) and (e), Occupations Code,  
12 are amended to read as follows:

13 (b) At least once every two years, the department shall  
14 inspect each [school,] shop[,] or other facility that holds a  
15 license, certificate, or permit in which the practice of barbering  
16 or cosmetology is performed under this chapter, Chapter 1601, or  
17 Chapter 1602, and at least twice per year, the department shall  
18 inspect each school in which barbering or cosmetology is taught  
19 under this chapter, Chapter 1601, or Chapter 1602.

20 (e) The department may charge the school, shop, or other  
21 facility [~~shall pay~~] a fee for each inspection performed under this  
22 section [~~Subsection (e)~~]. The commission shall by rule set the  
23 amount of the fee.

24 SECTION 17. Subchapter C, Chapter 1603, Occupations Code,  
25 is amended by adding Section 1603.1045 to read as follows:

26 Sec. 1603.1045. CONTRACT TO PERFORM INSPECTIONS. The  
27 department may contract with a person to perform for the department

1 inspections of a school, shop, or other facility under this  
2 chapter, Chapter 1601, or Chapter 1602.

3 SECTION 18. Subchapter E, Chapter 1603, Occupations Code,  
4 is amended by adding Section 1603.205 to read as follows:

5 Sec. 1603.205. DUAL BARBER AND BEAUTY SHOP LICENSE. (a) A  
6 person holding a dual barber and beauty shop license may own,  
7 operate, or manage a shop in which any practice of barbering defined  
8 by Section 1601.002(1) or cosmetology defined by Section  
9 1602.002(a) is performed.

10 (b) An applicant for a dual barber and beauty shop license  
11 must submit:

12 (1) an application on a department-approved form that  
13 is verified by the applicant;

14 (2) proof that the applicant meets the applicable  
15 requirements under Chapters 1601 and 1602 for obtaining a  
16 barbershop permit and a beauty shop license; and

17 (3) the required license fee.

18 (c) The department shall issue a dual barber and beauty shop  
19 license to an applicant that:

20 (1) meets the requirements under this chapter and  
21 Chapters 1601 and 1602;

22 (2) complies with commission rules; and

23 (3) pays the required fees.

24 (d) The holder of a dual barber and beauty shop license must  
25 comply with this chapter, Chapters 1601 and 1602, and commission  
26 rules related to barbering and cosmetology.

27 SECTION 19. Section 1603.352, Occupations Code, is amended

to read as follows:

Sec. 1603.352. STERILIZATION ~~[SANITATION]~~ REQUIREMENTS FOR CERTAIN SERVICES. (a) A person who holds a license, certificate, or permit issued under this chapter, Chapter 1601, or Chapter 1602 and who performs a barbering service described by Section 1601.002(1)(E) or (F) or a cosmetology service described by Section 1602.002(a)(10) or (11) ~~[1602.002(10) or (11)]~~:

~~[(1)]~~ shall, before performing the service, clean, disinfect, and sterilize with an autoclave or a dry heat, ultraviolet, or other department-approved sterilizer, in accordance with the sterilizer manufacturer's instructions, each metal [nondisposable] instrument, including metal nail clippers, cuticle pushers, cuticle nippers, and other metal instruments, used to perform the service~~[, and~~

~~[(2) may use a disposable supply or instrument only if that supply or instrument is purchased at the location where the service is performed or provided by the person on whom the service is performed].~~

(b) The owner or manager of a barber shop, barber school, beauty shop, specialty shop, ~~[or]~~ beauty culture school, or other facility licensed under this chapter, Chapter 1601, or Chapter 1602, is responsible for providing an autoclave or a dry heat, ultraviolet, or other department-approved sterilizer for use in the shop or school as required by Subsection (a). An autoclave or a dry heat, ultraviolet, or other department-approved sterilizer used as required by Subsection (a) must be~~+~~

~~[(1) registered and]~~ listed with the United States

1 ~~[federal]~~ Food and Drug Administration~~[, and~~  
2 ~~[(2) used in accordance with the manufacturer's~~  
3 ~~instructions]~~.

4 (c) Each sterilized instrument must be stored in accordance  
5 with the manufacturer's instructions.

6 (d) This section does not apply to:

7 (1) single-use instruments; or

8 (2) nonmetal nail files, buffer blocks, pumice stones,  
9 nail brushes, or other similar instruments.

10 (e) The commission may adopt rules to administer this  
11 section.

12 SECTION 20. Subchapter J, Chapter 1603, Occupations Code,  
13 is amended by adding Sections 1603.455 and 1603.456 to read as  
14 follows:

15 Sec. 1603.455. EMERGENCY ORDERS. (a) The executive  
16 director may issue an emergency order to suspend or revoke a license  
17 or permit issued, or to cease the operation of an unsafe facility  
18 regulated, by the department under this title if the executive  
19 director determines that an emergency exists requiring immediate  
20 action to protect the public health and safety.

21 (b) The executive director may issue the emergency order  
22 with or without notice and hearing as the executive director  
23 considers practicable under the circumstances.

24 (c) If an emergency order is issued under this section  
25 without a hearing, the executive director, not later than the 10th  
26 day after the date the emergency order was issued, shall set the  
27 time and place for a hearing conducted by the State Office of

1 Administrative Hearings to affirm, modify, or set aside the  
2 emergency order. The executive director shall set the hearing for a  
3 date not later than the 30th day after the date the time and place  
4 for the hearing are set. The hearing examiner shall affirm the  
5 order to the extent that reasonable cause existed to issue the  
6 order.

7 (d) The commission by rule may prescribe procedures for the  
8 issuance and appeal of an emergency order under this section,  
9 including a rule to allow the commission to affirm, modify, or set  
10 aside a decision by the State Office of Administrative Hearings  
11 under Subsection (c).

12 (e) A proceeding under this section is a contested case  
13 under Chapter 2001, Government Code.

14 Sec. 1603.456. CEASE AND DESIST ORDERS. The executive  
15 director may issue a cease and desist order, after notice and  
16 opportunity for hearing, if the executive director determines that  
17 the order is necessary to prevent a violation of:

18 (1) this chapter, Chapter 1601, or Chapter 1602; or

19 (2) a rule adopted by the commission.

20 SECTION 21. Sections 1601.506, 1602.266(c), and 1602.408,  
21 Occupations Code, are repealed.

22 SECTION 22. (a) The Texas Department of Licensing and  
23 Regulation shall issue a hair braiding specialty certificate of  
24 registration under Section 1601.259, Occupations Code, as added by  
25 this Act, to an applicant qualified under this section who:

26 (1) applies for a certificate of registration under  
27 this section not later than October 1, 2007;



1           (2) has the experience required by this section; and

2           (3) pays the application fee.

3           (b) An applicant for a hair braiding specialty certificate  
4 of registration under this section is required to have practiced  
5 hair braiding in this state for at least 10 years before the  
6 regulation of hair braiding by Chapter 267, Acts of the 75th  
7 Legislature, Regular Session, 1997.

8           (c) This section expires on October 31, 2007.

9           SECTION 23. Not later than January 1, 2008, the Texas  
10 Commission of Licensing and Regulation shall adopt rules necessary  
11 to implement the changes in law made by this Act, including rules to  
12 administer:

13           (1) Sections 1601.258 and 1601.259, Occupations Code,  
14 as added by this Act, related to eligibility for hair weaving and  
15 hair braiding specialty certificates;

16           (2) Section 1602.354, Occupations Code, as amended by  
17 this Act, related to continuing education and renewal requirements;

18           (3) Sections 1602.466 and 1603.258, Occupations Code,  
19 as added by this Act, related to the requirement that an applicant  
20 for a cosmetologist examination may not owe tuition to a beauty  
21 culture school; and

22           (4) Section 1603.205, Occupations Code, as added by  
23 this Act, related to dual barber and beauty shop licenses.

24           SECTION 24. The changes in law made by this Act apply only  
25 to an application for the issuance or renewal of a license, permit,  
26 or certificate that is filed with the Texas Department of Licensing  
27 and Regulation on or after the effective date of this Act. An

1 application for the issuance or renewal of a license, permit, or  
2 certificate that is filed before the effective date of this Act is  
3 governed by the law in effect on the date the application was filed,  
4 and the former law is continued in effect for that purpose.

5 SECTION 25. Notwithstanding Section 1603.205, Occupations  
6 Code, as added by this Act, the Texas Department of Licensing and  
7 Regulation may not issue a license under that section before May 1,  
8 2008.

9 SECTION 26. (a) Except as provided by Subsection (b) of  
10 this section, this Act takes effect immediately if it receives a  
11 vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2007.

15 (b) Sections 1602.466 and 1603.258, Occupations Code, as  
16 added by this Act, take effect April 1, 2008.

1-1 By: Chisum, et al. (Senate Sponsor - Whitmire) H.B. No. 2106  
1-2 (In the Senate - Received from the House May 7, 2007;  
1-3 May 8, 2007, read first time and referred to Committee on Business  
1-4 and Commerce; May 18, 2007, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;  
1-6 May 18, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2106 By: Lucio

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the regulation of barbering and cosmetology.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 1601.002, Occupations Code, is amended  
1-13 to read as follows:

1-14 Sec. 1601.002. DEFINITION OF BARBERING. In this chapter,  
1-15 "barbering," "practicing barbering," or the "practice of  
1-16 barbering" means:

1-17 (1) performing or offering or attempting to perform  
1-18 for compensation or the promise of compensation any of the  
1-19 following services:

1-20 (A) treating a person's mustache or beard by  
1-21 arranging, beautifying, coloring, processing, shaving, styling, or  
1-22 trimming;

1-23 (B) treating a person's hair by:

1-24 (i) arranging, beautifying, bleaching,  
1-25 cleansing, coloring, curling, dressing, dyeing, processing,  
1-26 shampooing, shaping, singeing, straightening, styling, tinting, or  
1-27 waving;

1-28 (ii) providing a necessary service that is  
1-29 preparatory or ancillary to a service under Subparagraph (i),  
1-30 including bobbing, clipping, cutting, or trimming; or

1-31 (iii) cutting the person's hair as a  
1-32 separate and independent service for which a charge is directly or  
1-33 indirectly made separately from a charge for any other service;

1-34 (C) cleansing, stimulating, or massaging a  
1-35 person's scalp, face, neck, arms, or shoulders:

1-36 (i) by hand or by using a device, apparatus,  
1-37 or appliance; and

1-38 (ii) with or without the use of any cosmetic  
1-39 preparation, antiseptic, tonic, lotion, or cream;

1-40 (D) beautifying a person's face, neck, arms, or  
1-41 shoulders using a cosmetic preparation, antiseptic, tonic, lotion,  
1-42 powder, oil, clay, cream, or appliance;

1-43 (E) treating a person's nails by:

1-44 (i) cutting, trimming, polishing, tinting,  
1-45 coloring, cleansing, manicuring, or pedicuring; or

1-46 (ii) attaching false nails;

1-47 (F) massaging, cleansing, treating, or  
1-48 beautifying a person's hands;

1-49 (G) administering facial treatments;

1-50 (H) weaving a person's hair by using any method  
1-51 to attach commercial hair to a person's hair or scalp;

1-52 (I) shampooing or conditioning a person's hair;  
1-53 [✕]

1-54 (J) servicing in any manner listed in Paragraph  
1-55 (B) a person's wig, toupee, or artificial hairpiece on a person's  
1-56 head or on a block after the initial retail sale; or

1-57 (K) braiding a person's hair, trimming hair  
1-58 extensions only as applicable to the braiding process, and  
1-59 attaching commercial hair only by braiding and without the use of  
1-60 chemicals or adhesives;

1-61 (2) advertising or representing to the public in any  
1-62 manner that a person is a barber or is authorized to practice  
1-63 barbering; or

(3) advertising or representing to the public in any manner that a location or place of business is a barbershop, specialty shop, or barber school.

SECTION 2. Section 1601.253(b), Occupations Code, is amended to read as follows:

(b) The department shall issue a Class A barber certificate to an applicant who:

(1) complies with the application requirements of this chapter;

(2) passes the applicable examination [~~with an average grade of at least 75 percent~~];

(3) pays the required fee; and

(4) possesses the other qualifications required by this chapter.

SECTION 3. Subchapter F, Chapter 1601, Occupations Code, is amended by adding Sections 1601.258 and 1601.259 to read as follows:

Sec. 1601.258. ELIGIBILITY FOR HAIR WEAVING SPECIALTY CERTIFICATE OF REGISTRATION. (a) A person holding a hair weaving specialty certificate of registration may perform only barbering as defined by Section 1601.002(1)(H).

(b) An applicant for a hair weaving specialty certificate of registration must:

(1) be at least 17 years of age; and

(2) satisfy the requirements specified by the department, including training through a commission-approved training program.

(c) The department shall issue a hair weaving specialty certificate of registration to an applicant who:

(1) possesses the qualifications described by Subsection (b);

(2) pays the required registration fee; and

(3) has not committed an act that constitutes a ground for denial of the certificate.

Sec. 1601.259. ELIGIBILITY FOR HAIR BRAIDING SPECIALTY CERTIFICATE OF REGISTRATION. (a) A person holding a hair braiding specialty certificate of registration may perform only barbering as defined by Section 1601.002(1)(K).

(b) An applicant for a hair braiding specialty certificate must:

(1) be at least 17 years of age; and

(2) satisfy the requirements specified by the department, including training through a commission-approved training program.

(c) The department shall issue a hair braiding specialty certificate of registration to an applicant who:

(1) possesses the qualifications described by Subsection (b);

(2) pays the required registration fee; and

(3) has not committed an act that constitutes a ground for denial of the certificate.

SECTION 4. Section 1601.303, Occupations Code, is amended to read as follows:

Sec. 1601.303. ISSUANCE OF BARBERSHOP PERMIT. The department shall issue a barbershop permit to an applicant if:

(1) the applicant owns the barbershop; [~~and~~]

(2) the applicant verifies the application; and

(3) the shop meets the minimum health standards for barbershops set by the commission and complies with all other commission rules.

SECTION 5. Sections 1601.304 and 1601.305, Occupations Code, are amended to read as follows:

Sec. 1601.304. [~~MANICURIST~~] SPECIALTY SHOP PERMIT. (a) A person who holds a [~~manicurist~~] specialty shop permit may maintain an establishment in which only barbering as defined by Section [~~Sections~~] 1601.002(1)(E), [~~and~~] (F), (H), or (K) is performed. [~~A manicurist specialty shop may be operated only under the direction of a person who holds a manicurist license.~~]

(b) An applicant for a [~~manicurist~~] specialty shop permit

must submit:

(1) an application on a department-approved form ~~[that includes:~~

~~[(A) the shop's address,~~  
~~[(B) the legal description of the premises for which the permit is sought, and~~  
~~[(C) any other information required by the department]; and~~

(2) the required inspection fee.

~~[(c) As soon as practicable after receipt of the application and fee, the department shall issue a temporary manicurist specialty shop permit to the applicant. The applicant may operate the applicant's shop under the temporary permit until a permanent permit is issued.]~~

Sec. 1601.305. ISSUANCE OF [MANICURIST] SPECIALTY SHOP PERMIT. The department shall issue a ~~[permanent manicurist]~~ specialty shop permit to an applicant if:

(1) the applicant submits proof that the applicant satisfies the requirements established by the commission for a specialty shop ~~[holds a manicurist license]; [and]~~

(2) the applicant pays the required inspection fee and permit fee;

(3) the applicant verifies the application and the application complies with commission rules; and

(4) the applicant has not committed an act that constitutes a ground for denial of a permit, certificate, or license under this chapter ~~[the shop meets the minimum health standards for manicurist specialty shops set by the commission, as determined by a department inspection under Section 1603.103, and any other requirements imposed by commission rule].~~

SECTION 6. Section 1601.353(a), Occupations Code, is amended to read as follows:

(a) The department may not approve an application for a permit for a barber school that provides training leading to issuance of a Class A barber certificate unless the school has:

(1) ~~a [an adequate school site housed in a substantial]~~ building of permanent construction containing at least 2,800 square feet of floor space, divided into at least:

(A) a senior department;  
 (B) a junior department;  
 (C) a class theory room;  
 (D) a supply room;  
 (E) an office space; and  
 (F) ~~[a dressing and cloak room, and~~  
~~[(G) two sanitary, modern,] separate restrooms for male and female students[, each equipped with one commode and one of which is also equipped with a urinal];~~

(2) a hard-surface floor-covering of tile or other suitable material;

(3) at least 20 modern barber chairs, including a cabinet and mirror for each chair;

(4) a sink ~~[lavatory]~~ behind every two barber chairs;

(5) a liquid sterilizer for each barber chair;

(6) an adequate number of latherers, vibrators, and hair dryers for student use;

(7) adequate lighting for each room;

(8) at least 20 classroom chairs, a blackboard, anatomical charts of the head, neck, and face, and one barber chair in the class theory room;

(9) ~~[a library with library facilities available to students containing]~~ at least one medical dictionary and a standard work on human anatomy;

(10) adequate drinking fountain facilities, with at least one for each floor; and

(11) at least one fire extinguisher ~~[adequate toilet facilities for the students, and~~

~~[(12) adequate fire-fighting equipment].~~

SECTION 7. Section 1601.453, Occupations Code, is amended to read as follows:

4-1 Sec. 1601.453. LOCATION OF PRACTICE. A person licensed by  
 4-2 the department may practice barbering only at a location for which  
 4-3 the department has issued a barbershop permit, specialty shop  
 4-4 permit, or barber school permit under this chapter or a permit  
 4-5 issued under Chapter 1603.

4-6 SECTION 8. Section 1602.256, Occupations Code, is amended  
 4-7 to read as follows:

4-8 Sec. 1602.256. ELIGIBILITY FOR A MANICURIST SPECIALTY  
 4-9 LICENSE. (a) A person holding a manicurist specialty license may  
 4-10 perform only the practice of cosmetology defined in Section  
 4-11 1602.002(a)(10) or (11) [1602.002(9) or (10)].

4-12 (b) To be eligible for a manicurist specialty license, an  
 4-13 applicant must:

- 4-14 (1) be at least 17 years of age;
- 4-15 (2) have obtained a high school diploma or the  
 4-16 equivalent of a high school diploma or have passed a valid  
 4-17 examination administered by a certified testing agency that  
 4-18 measures the person's ability to benefit from training; and
- 4-19 (3) have completed 600 hours of instruction in  
 4-20 manicuring through a commission-approved training program.

4-21 SECTION 9. Section 1602.257(a), Occupations Code, is  
 4-22 amended to read as follows:

4-23 (a) A person holding a facialist specialty license may  
 4-24 perform only the practice of cosmetology defined in Sections  
 4-25 1602.002(a)(6) through (9) [Section 1602.002(7)].

4-26 SECTION 10. Section 1602.258, Occupations Code, is amended  
 4-27 to read as follows:

4-28 Sec. 1602.258. ELIGIBILITY FOR A SPECIALTY  
 4-29 CERTIFICATE. (a) A person holding a specialty certificate may  
 4-30 perform only the practice of cosmetology defined in Sections  
 4-31 1602.002(a)(2) through (4) [Section 1602.002(2), (3), (4), or (7)].

4-32 (b) To be eligible for a specialty certificate, an applicant  
 4-33 must:

- 4-34 (1) be at least 17 years of age; and
- 4-35 (2) ~~[have obtained a high school diploma or the~~  
 4-36 ~~equivalent of a high school diploma or have passed a valid~~  
 4-37 ~~examination administered by a certified testing agency that~~  
 4-38 ~~measures the person's ability to benefit from training; and~~  
 4-39 ~~[(3)]~~ have the necessary requisites as determined by  
 4-40 the department in the particular specialty for which certification  
 4-41 is sought, including training through a commission-approved  
 4-42 training program.

4-43 SECTION 11. Section 1602.262(a), Occupations Code, is  
 4-44 amended to read as follows:

4-45 (a) An applicant for an operator license, instructor  
 4-46 license, manicurist specialty license, or facialist specialty  
 4-47 license is entitled to the license if the applicant:

- 4-48 (1) meets the applicable eligibility requirements;
- 4-49 (2) passes the applicable examination;
- 4-50 (3) pays the required fee; and
- 4-51 (4) has not committed an act that constitutes a ground  
 4-52 for denial of the license.

4-53 SECTION 12. Section 1602.303(b), Occupations Code, is  
 4-54 amended to read as follows:

4-55 (b) An application for a private beauty culture school  
 4-56 license must be accompanied by the required license fee and  
 4-57 inspection fee and:

- 4-58 (1) be on a form prescribed by the department;
- 4-59 (2) be verified by the applicant; and
- 4-60 (3) ~~[contain a detailed floor plan of the school~~  
 4-61 ~~building divided into two separate areas, one area for instruction~~  
 4-62 ~~in theory and one area for clinic work; and~~

4-63 ~~[(4)]~~ contain a statement that the building:  
 4-64 (A) ~~[is fireproof,~~  
 4-65 ~~[(B)]~~ is of permanent construction and is divided  
 4-66 into at least two separate areas:

- 4-67 (i) one area for instruction in theory; and
- 4-68 (ii) one area for clinic work;
- 4-69 (B) ~~[(C)]~~ contains a minimum of 3,500 square feet

of floor space;

(C) ~~[(D)]~~ has separate restrooms for male and female students; and

(D) ~~[(E)]~~ contains, or will contain before classes begin, the equipment established by commission rule as sufficient to properly instruct a minimum of 50 students.

SECTION 13. Section 1602.354, Occupations Code, is amended to read as follows:

Sec. 1602.354. CONTINUING EDUCATION. (a) The commission will by rule recognize, prepare, or administer continuing education programs for the practice of cosmetology. Participation in the programs is mandatory for all license renewals.

(b) The commission may only require a license holder to complete continuing education of not more than four hours in health and safety courses if the license holder:

(1) is at least 65 years of age; and

(2) has held a cosmetology license for at least 15 years.

SECTION 14. Section 1602.403(a), Occupations Code, is amended to read as follows:

(a) A private beauty culture school may not employ:

(1) a person holding an operator license, manicurist specialty license, or specialty certificate solely to perform the practices of cosmetology for which the person is licensed or certified; or

(2) a person holding an instructor license to perform any act or practice of cosmetology.

SECTION 15. Section 1603.103, Occupations Code, is amended to read as follows:

Sec. 1603.103. INSPECTION OF SCHOOLS~~[, SHOPS, AND FACILITIES]~~ BEFORE OPERATION. (a) Until the department determines, by inspection, that the person has established the school~~[, shop, or facility]~~ in compliance with this chapter, Chapter 1601, or Chapter 1602, a person may not operate a school~~[, shop, or other facility]~~ licensed or permitted under this chapter, Chapter 1601, or Chapter 1602.

(b) A school~~[, shop, or other facility]~~ that is not approved by the department on initial inspection may be reinspected.

(c) The department may charge the school~~[, shop, or other facility]~~ a fee for each inspection. The commission shall by rule set the amount of the fee.

SECTION 16. Sections 1603.104(b) and (e), Occupations Code, are amended to read as follows:

(b) At least once every two years, the department shall inspect each ~~[school,]~~ shop~~]~~ or other facility that holds a license, certificate, or permit in which the practice of barbering or cosmetology is performed under this chapter, Chapter 1601, or Chapter 1602, and at least twice per year, the department shall inspect each school in which barbering or cosmetology is taught under this chapter, Chapter 1601, or Chapter 1602.

(e) The department may charge the school, shop, or other facility ~~[shall pay]~~ a fee for each inspection performed under Subsection (c). The commission shall by rule set the amount of the fee.

SECTION 17. Subchapter C, Chapter 1603, Occupations Code, is amended by adding Section 1603.1045 to read as follows:

Sec. 1603.1045. CONTRACT TO PERFORM INSPECTIONS. The department may contract with a person to perform for the department inspections of a school, shop, or other facility under this chapter, Chapter 1601, or Chapter 1602.

SECTION 18. Subchapter E, Chapter 1603, Occupations Code, is amended by adding Sections 1603.205 and 1603.206 to read as follows:

Sec. 1603.205. DUAL BARBER AND BEAUTY SHOP LICENSE. (a) A person holding a dual barber and beauty shop license may own, operate, or manage a shop in which any practice of barbering defined by Section 1601.002(1) or cosmetology defined by Section 1602.002(a) is performed.

(b) An applicant for a dual barber and beauty shop license

6-1 must submit:

6-2 (1) an application on a department-approved form that  
6-3 is verified by the applicant;

6-4 (2) proof that the applicant meets the applicable  
6-5 requirements under Chapters 1601 and 1602 for obtaining a  
6-6 barbershop permit and a beauty shop license; and

6-7 (3) the required license fee.

6-8 (c) The department shall issue a dual barber and beauty shop  
6-9 license to an applicant that:

6-10 (1) meets the requirements under this chapter and  
6-11 Chapters 1601 and 1602;

6-12 (2) complies with commission rules; and

6-13 (3) pays the required fees.

6-14 (d) The holder of a dual barber and beauty shop license must  
6-15 comply with this chapter, Chapters 1601 and 1602, and commission  
6-16 rules related to barbering and cosmetology.

6-17 Sec. 1603.206. MOBILE SHOPS. (a) In this section, "mobile  
6-18 shop" means a facility that is readily movable and where barbering,  
6-19 cosmetology, or both are practiced other than at a fixed location.

6-20 (b) A barbershop, beauty shop, or specialty shop licensed or  
6-21 permitted under this chapter, Chapter 1601, or Chapter 1602 may be a  
6-22 mobile shop.

6-23 (c) The commission may adopt rules to administer this  
6-24 section, including rules providing for:

6-25 (1) the licensing or permitting of a mobile shop;

6-26 (2) the fees for a mobile shop;

6-27 (3) the operation of a mobile shop;

6-28 (4) reporting requirements for a mobile shop; and

6-29 (5) the inspection of a mobile shop.

6-30 SECTION 19. Section 1603.352, Occupations Code, is amended  
6-31 to read as follows:

6-32 Sec. 1603.352. STERILIZATION [SANITATION] REQUIREMENTS FOR  
6-33 CERTAIN SERVICES. (a) A person who holds a license, certificate,  
6-34 or permit issued under this chapter, Chapter 1601, or Chapter 1602  
6-35 and who performs a barbering service described by Section  
6-36 1601.002(1)(E) or (F) or a cosmetology service described by Section  
6-37 1602.002(a)(10) or (11) ~~[1602.002(10) or (11)]~~.

6-38 ~~[(1)]~~ shall, before performing the service, clean,  
6-39 disinfect, and sterilize with an autoclave or a dry heat,  
6-40 ultraviolet, or other department-approved sterilizer, in  
6-41 accordance with the sterilizer manufacturer's instructions, each  
6-42 metal ~~[nondisposable]~~ instrument, including metal nail clippers,  
6-43 cuticle pushers, cuticle nippers, and other metal instruments, used  
6-44 to perform the service~~], and~~

6-45 ~~[(2)] may use a disposable supply or instrument only if~~  
6-46 ~~that supply or instrument is purchased at the location where the~~  
6-47 ~~service is performed or provided by the person on whom the service~~  
6-48 ~~is performed].~~

6-49 (b) The owner or manager of a barber shop, barber school,  
6-50 beauty shop, specialty shop, ~~[or]~~ beauty culture school, or other  
6-51 facility licensed under this chapter, Chapter 1601, or Chapter  
6-52 1602, is responsible for providing an autoclave or a dry heat,  
6-53 ultraviolet, or other department-approved sterilizer for use in the  
6-54 shop or school as required by Subsection (a). An autoclave or a dry  
6-55 heat, ultraviolet, or other department-approved sterilizer used as  
6-56 required by Subsection (a) must be~~[-~~

6-57 ~~[(1)] registered and~~ listed with the United States  
6-58 ~~[federal]~~ Food and Drug Administration~~], and~~

6-59 ~~[(2)] used in accordance with the manufacturer's~~  
6-60 ~~instructions].~~

6-61 (c) Each sterilized instrument must be stored in accordance  
6-62 with the manufacturer's instructions.

6-63 (d) This section does not apply to:

6-64 (1) single-use instruments; or

6-65 (2) nonmetal nail files, buffer blocks, pumice stones,  
6-66 nail brushes, or other similar instruments.

6-67 (e) The commission may adopt rules to administer this  
6-68 section.

6-69 SECTION 20. Subchapter J, Chapter 1603, Occupations Code,



is amended by adding Sections 1603.455 and 1603.456 to read as follows:

Sec. 1603.455. EMERGENCY ORDERS. (a) The executive director may issue an emergency order to suspend or revoke a license or permit issued, or to cease the operation of an unsafe facility regulated, by the department under this title if the executive director determines that an emergency exists requiring immediate action to protect the public health and safety.

(b) The executive director may issue the emergency order with or without notice and hearing as the executive director considers practicable under the circumstances.

(c) If an emergency order is issued under this section without a hearing, the executive director, not later than the 10th day after the date the emergency order was issued, shall set the time and place for a hearing conducted by the State Office of Administrative Hearings to affirm, modify, or set aside the emergency order. The executive director shall set the hearing for a date not later than the 30th day after the date the time and place for the hearing are set. The hearing examiner shall affirm the order to the extent that reasonable cause existed to issue the order.

(d) The commission by rule may prescribe procedures for the issuance and appeal of an emergency order under this section, including a rule to allow the commission to affirm, modify, or set aside a decision by the State Office of Administrative Hearings under Subsection (c).

(e) A proceeding under this section is a contested case under Chapter 2001, Government Code.

Sec. 1603.456. CEASE AND DESIST ORDERS. The executive director may issue a cease and desist order, after notice and opportunity for hearing, if the executive director determines that the order is necessary to prevent a violation of:

(1) this chapter, Chapter 1601, or Chapter 1602; or

(2) a rule adopted by the commission.

SECTION 21. Sections 1601.506, 1602.266(c), and 1602.408, Occupations Code, are repealed.

SECTION 22. (a) The Texas Department of Licensing and Regulation shall issue a hair braiding specialty certificate of registration under Section 1601.259, Occupations Code, as added by this Act, to an applicant qualified under this section who:

(1) applies for a certificate of registration under this section not later than October 1, 2007;

(2) has the experience required by this section; and

(3) pays the application fee.

(b) An applicant for a hair braiding specialty certificate of registration under this section is required to have practiced hair braiding in this state for at least 10 years before the regulation of hair braiding by Chapter 267, Acts of the 75th Legislature, Regular Session, 1997.

(c) This section expires on October 31, 2007.

SECTION 23. Not later than January 1, 2008, the Texas Commission of Licensing and Regulation shall adopt rules necessary to implement the changes in law made by this Act, including rules to administer:

(1) Sections 1601.258 and 1601.259, Occupations Code, as added by this Act, related to eligibility for hair weaving and hair braiding specialty certificates;

(2) Section 1602.354, Occupations Code, as amended by this Act, related to continuing education and renewal requirements;

(3) Section 1603.205, Occupations Code, as added by this Act, related to dual barber and beauty shop licenses.

SECTION 24. The changes in law made by this Act apply only to an application for the issuance or renewal of a license, permit, or certificate that is filed with the Texas Department of Licensing and Regulation on or after the effective date of this Act. An application for the issuance or renewal of a license, permit, or certificate that is filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

8-1 SECTION 25. Notwithstanding Section 1603.205, Occupations  
8-2 Code, as added by this Act, the Texas Department of Licensing and  
8-3 Regulation may not issue a license under that section before May 1,  
8-4 2008.

8-5 SECTION 26. This Act takes effect immediately if it  
8-6 receives a vote of two-thirds of all the members elected to each  
8-7 house, as provided by Section 39, Article III, Texas Constitution.  
8-8 If this Act does not receive the vote necessary for immediate  
8-9 effect, this Act takes effect September 1, 2007.

8-10

\* \* \* \* \*

FAVORABLY AS SUBSTITUTED  
SENATE COMMITTEE REPORT ON

SB SCR SJR SR HB HCR HJR 2100  
By Chris Whitmire  
(Author/Senate Sponsor)  
5/18/07  
(date)

We, your Committee on BUSINESS AND COMMERCE, to which was referred the attached measure,  
have on 5/15/07, had the same under consideration and I am instructed to report it  
(date of hearing)  
back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed  
☒ the caption remained the same as original measure  
☐ the caption changed with adoption of the substitute  
  
☐ do pass as substituted, and be ordered not printed  
  
☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☒ yes ☐ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Troy Fraser, Chairman	<input checked="" type="checkbox"/>			
Senator Chris Harris, Vice-Chairman			<input checked="" type="checkbox"/>	
Senator Kip Averitt	<input checked="" type="checkbox"/>			
Senator Kevin Eltife	<input checked="" type="checkbox"/>			
Senator Craig Estes	<input checked="" type="checkbox"/>			
Senator Kyle Janek	<input checked="" type="checkbox"/>			
Senator Eddie Lucio	<input checked="" type="checkbox"/>			
Senator Leticia Van de Putte	<input checked="" type="checkbox"/>			
Senator Kirk Watson	<input checked="" type="checkbox"/>			
TOTAL VOTES	<u>8</u>		<u>1</u>	

COMMITTEE ACTION

S260 Considered in public hearing

S270 Testimony taken

Yatri Rangan  
COMMITTEE CLERK

Zy Fan  
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute  
Retain one copy of this form for Committee files

WITNESS LIST

HB 2106

Senate Committee Report

Business & Commerce

May 15, 2007 - 9:00 AM

FOR:

Holcombe, Linda (Texas Industrial Vocational Association), Austin, TX

Schnabel, Charlie (Lone Star Cosmetology Association), Austin, TX

Registering, but not testifying:

For:

Davis, Jennifer Cosmetologist (Self), Austin, TX

On:

Kuntz, Jr., William H. (Texas Department of Licensing and Regulation), Austin, TX

## **BILL ANALYSIS**

Senate Research Center  
80R20388 YDB-F

C.S.H.B. 2106  
By: Chisum et al. (Whitmire)  
Business & Commerce  
5/15/2007  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The public uses barbers and cosmetologists every day for haircuts, manicures, pedicures, and other beauty needs. The licensing and regulation of the more than 13,000 barbers and more than 150,000 cosmetologists in Texas is performed by the Texas Department of Licensing and Regulation (TDLR). Both the Board of Barber Examiners and the Texas Cosmetology Commission were dissolved by the 79<sup>th</sup> Legislature and the functions of those agencies were transferred to TDLR. As the state's umbrella licensing agency, TDLR's practices and those of the former agencies differ in certain areas.

C.S.H.B. 2106 amends Chapters 1601, 1602, and 1603, Occupations Code, in an effort to make statutory clean-up changes, streamline the processes for practicing and learning barbering and cosmetology as well as owning and operating barbershops and salons, and to help ensure that the public is protected when visiting barbershops and cosmetology salons throughout the state.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 18 (Section 1603.206, Occupations Code) SECTION 19 (Section 1603.352, Occupations Code) and SECTION 20 (Section 1603.455, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas Commission of Licensing and Regulation is modified in SECTION 13 (Section 1602.354, Occupations Code), SECTION 15 (Section 1603.103, Occupations Code), and SECTION 16 (Section 1603.104, Occupations Code).

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 1601.002, Occupations Code, to redefine "barbering," "practicing barbering," and "practice of barbering."

SECTION 2. Amends Section 1601.253(b), Occupations Code, to require the Texas Department of Licensing and Regulation (TDLR) to issue a Class A barber certificate to an applicant who passes the applicable examination, rather than passes the examination with an average grade of at least 75 percent.

SECTION 3. Amends Subchapter F, Chapter 1601, Occupations Code, by adding Sections 1601.258 and 1601.259, as follows:

Sec. 1601.258. ELIGIBILITY FOR HAIR WEAVING SPECIALTY CERTIFICATE OF REGISTRATION. (a) Authorizes a person holding a hair weaving specialty certificate of registration to perform only barbering as defined by Section 1601.002(1)(H).

(b) Requires an applicant for a hair weaving specialty certificate of registration to be at least 17 years of age and satisfy the requirements specified by TDLR, including training through a training program approved by the Texas Commission of Licensing and Regulation (commission).

(c) Requires TDLR to issue a hair weaving specialty certificate of registration to an applicant who meets certain requirements.

Sec. 1601.259. **ELIGIBILITY FOR HAIR BRAIDING SPECIALTY CERTIFICATE OF REGISTRATION.** (a) Authorizes a person holding a hair braiding specialty certificate of registration to perform only barbering as defined by Section 1601.002(1)(K).

(b) Requires an applicant for a hair braiding specialty certificate of registration to be at least 17 years of age and satisfy the requirements specified by TDLR, including training through a training program approved by the commission.

(c) Requires TDLR to issue a hair braiding specialty certificate of registration to an applicant who meets certain requirements.

**SECTION 4.** Amends Section 1601.303, Occupations Code, to require TDLR to issue a barbershop permit to an applicant if, among other things, the applicant verifies the application.

**SECTION 5.** Amends Sections 1601.304 and 1601.305, Occupations Code, as follows:

Sec. 1601.304. New heading: **SPECIALTY SHOP PERMIT.** (a) Authorizes a person who holds a specialty shop permit, rather than a manicurist specialty shop permit, to maintain an establishment in which only barbering as defined by Section 1601.002(1)(E), (F), (H), or (K) is performed. Deletes existing text authorizing a manicurist specialty shop to be operated only under the direction of a person who holds a manicurist license.

(b) Requires an applicant for a specialty shop permit to submit an application on a TDLR-approved form and the required inspection fee. Deletes existing text requiring the application to include certain information. Deletes existing Subsection (c) requiring TDLR to issue a temporary manicurist specialty shop permit to the applicant as soon as practicable after receipt of the application and fee. Deletes existing text authorizing the applicant to operate the applicant's shop under the temporary permit until a permanent permit is issued. Makes conforming changes.

Sec. 1601.305. New heading: **ISSUANCE OF SPECIALTY SHOP PERMIT.** Requires TDLR to issue a specialty shop permit to an applicant if the applicant meets certain conditions. Deletes existing text requiring TDLR to issue a permanent manicurist specialty shop permit to an applicant if the applicant holds a manicurist license and the shop meets the minimum health standards for manicurist specialty shops set by the commission, as determined by a TDLR inspection under Section 1603.103, and any other requirements imposed by commission rule.

**SECTION 6.** Amends Section 1601.353(a), Occupations Code, to delete existing text requiring a barber school to have a dressing and cloak room, a library with library facilities available to students, adequate toilet facilities for the students, and adequate fire-fighting equipment in order to be approved for a barber school permit. Makes nonsubstantive changes.

**SECTION 7.** Amends Section 1601.453, Occupations Code, making a reference to a barber school permit under this chapter or a permit issued under Chapter 1603.

**SECTION 8.** Amends Section 1602.256, Occupations Code, as follows:

Sec. 1602.256. New heading: **ELIGIBILITY FOR A MANICURIST SPECIALTY LICENSE.** (a) Authorizes a person holding a manicurist specialty license, rather than a manicurist license, to perform only the practice of cosmetology defined in Section 1602.002(a)(10) or (11), rather than 1602.002(9) or (10).

(b) Makes a conforming change.

**SECTION 9.** Amends Section 1602.257(a), Occupations Code, authorizing a person holding a facialist specialty license to perform only the practice of cosmetology defined in Sections 1602.002(a)(6) through (9), rather than 1602.002(7).

**SECTION 10. Amends Section 1602.258, Occupations Code, as follows:**

Sec. 1602.258. **ELIGIBILITY FOR A SPECIALTY CERTIFICATE.** (a) Authorizes a person holding a specialty certificate to perform only the practice of cosmetology defined in Sections 1602.002(a)(2) through (4), rather than Section 1602.002(2), (3), (4), or (7). Deletes existing text requiring an applicant to have obtained a high school diploma or the equivalent of a high school diploma or have passed a valid examination administered by a certified testing agency that measures the person's ability to benefit from training in order to be eligible for a specialty certificate.

**SECTION 11. Amends Section 1602.262(a), Occupations Code, to make a conforming change.**

**SECTION 12. Amends Section 1602.303(b), Occupations Code, as follows:**

(b) Requires an application for a private beauty culture school license to be accompanied by the required fees and to contain a statement that the building is of permanent construction and is divided into at least one area for instruction in theory and one area for clinic work. Deletes existing text requiring the application to contain a statement that the building is fireproof.

**SECTION 13. Amends Section 1602.354, Occupations Code, as follows:**

Sec. 1602.354. **CONTINUING EDUCATION.** (a) Creates this subsection from existing text.

(b) Authorizes the commission to only require a license holder to complete continuing education of not more than four hours in health and safety courses if the license holder is at least 65 years of age and has held a cosmetology license for at least 15 years.

**SECTION 14. Amends Section 1602.403(a), Occupations Code, to make a conforming change.**

**SECTION 15. Amends Section 1603.103, Occupations Code, as follows:**

Sec. 1603.103. **New heading: INSPECTION OF SCHOOLS BEFORE OPERATION.**

(a) Changes a reference to a school, shop, or other facility, to a shop only. Makes a conforming change.

(b) Makes a conforming change.

(c) Authorizes TDLR to charge the school a fee for each inspection. Deletes existing text requiring the school, shop, or other facility to pay a fee for each inspection.

**SECTION 16. Amends Sections 1603.104(b) and (e), Occupations Code, as follows:**

(b) Requires TDLR, at least once every two years, to inspect each shop or other facility that holds a license, certificate, or permit in which the practice of barbering or cosmetology is performed under this chapter, Chapter 1601, or Chapter 1602, and require TDLR, at least twice per year, to inspect each school in which barbering or cosmetology is taught under this chapter, Chapter 1601, or Chapter 1602.

(e) Authorizes TDLR to charge the school, shop, or other facility a fee for each inspection performed under Subsection (c).

**SECTION 17. Amends Subchapter C, Chapter 1603, Occupations Code, by adding Section 1603.1045, as follows:**

Sec. 1603.1045. **CONTRACT TO PERFORM INSPECTIONS.** Authorizes TDLR to contract with a person to perform for TDLR inspections of a school, shop, or other facility under this chapter, Chapter 1601, or Chapter 1602.

SECTION 18. Amends Subchapter E, Chapter 1603, Occupations Code, by adding Sections 1603.205 and 1603.206, as follows:

Sec. 1603.205. DUAL BARBER AND BEAUTY SHOP LICENSE. (a) Authorizes a person holding a dual barber and beauty shop license to own, operate, or manage a shop in which any practice of barbering defined by Section 1601.002(1) or cosmetology defined by Section 1602.002(a).

(b) Requires an applicant for a dual barber and beauty shop license to submit an application on a TDLR-approved form verified by the applicant, proof that the applicant meets the applicable requirements under Chapter 1601 and 1602 for obtaining a barbershop permit and a beauty shop license, and the required license fee.

(c) Requires TDLR to issue a dual barber and beauty shop license to an applicant that meets the requirements under this chapter and Chapters 1601 and 1602, complies with commission rules, and pays the required fees.

(d) Requires the holder of a dual barber and beauty shop license to comply with this chapter, Chapters 1601 and 1602, and commission rules related to barbering and cosmetology.

Sec. 1603.206. MOBILE SHOPS. (a) Defines "mobile shop."

(b) Authorizes a barbershop, beauty shop, or specialty shop licensed under this chapter, Chapter 1601, or Chapter 1602 to be a mobile shop.

(c) Authorizes the commission to adopt rules to administer this section, including certain rules as provided in this subsection.

SECTION 19. Amends Section 1603.352, Occupations Code, as follows:

Sec. 1603.352. New heading: STERILIZATION REQUIREMENTS FOR CERTAIN SERVICES. (a) Requires a person who holds certain licenses, certificates, or permits and performs a barbering service described by Section 1601.002(1)(E) or (F) or a cosmetology service described by Section 1602(a)(10) or (11), rather than 1602.002(10) or (11), to clean, disinfect, and sterilize with an autoclave or a dry heat, ultraviolet, or other TDLR-approved sterilizer (sterilizing equipment), in accordance with the sterilizer manufacturer's instructions, each metal instrument, including metal nail clippers, cuticle pushers, cuticle nippers, and other metal instruments, before the service is performed. Deletes existing text authorizing a person who holds certain licenses, certificates, or permits and performs certain barbering and cosmetology services to use a disposable supply or instrument only if that supply or instrument is purchased at the location where the service is performed or provided by the person on whom the service is performed.

(b) Provides that the owner or manager of a barber shop, barber school, beauty shop, specialty shop, beauty culture school, or other facility licensed under this chapter, Chapter 1601, or Chapter 1602, is responsible for providing sterilizing equipment for use in the shop or school as required by Subsection (a). Requires sterilizing equipment used as required by Subsection (a) to be listed with the United States Food and Drug Administration (FDA). Deletes existing text requiring sterilizing equipment to be registered with the FDA and used in accordance with the manufacturer's instructions.

(c) Requires each sterilized instrument to be used in accordance with the manufacturer's instructions.

(d) Provides that this section does not apply to single-use instruments or nonmetal nail files, buffer blocks, pumice stones, nail brushes, or other similar instruments.



(e) Authorizes the commission to adopt rules to administer this section.

**SECTION 20.** Amends Subchapter J, Chapter 1603, Occupations Code, by adding Sections 1603.455 and 1603.456, as follows:

**Sec. 1603.455. EMERGENCY ORDERS.** (a) Authorizes the executive director of TDLR (executive director) to issue an emergency order to suspend or revoke a license or permit issued, or to cease the operation of an unsafe facility regulated, by TDLR under this title if the executive director determines that an emergency exists requiring immediate action to protect the public health and safety.

(b) Authorizes the executive director to issue the emergency order with or without notice and hearing as the executive director considers practicable under the circumstances.

(c) Requires the executive director, not later than 10 days after the date an emergency order is issued under this section without a hearing, to set the time and place for a hearing conducted by the State Office of Administrative Hearings (SOAH) to affirm, modify, or set aside the emergency order. Requires the executive director to set the hearing for a date not later than 30 days after the date the time and place for a hearing are set. Requires the hearing examiner to affirm the order to the extent that reasonable cause existed to issue the order.

(d) Authorizes the commission by rule to prescribe procedures for the issuance and appeal of an emergency order under this section, including a rule to allow the commission to affirm, modify, or set aside a decision by SOAH under Subsection (c).

(e) Provides that a proceeding under this section is a contested case under Chapter 2001, Government Code.

**Sec. 1603.456. CEASE AND DESIST ORDERS.** Authorizes the executive director to issue a cease and desist order, after notice and opportunity for a hearing, if the executive director determines that the order is necessary to prevent a violation of this chapter, Chapter 1601, or Chapter 1602, or a rule adopted by the commission.

**SECTION 21.** Repealer: Sections 1601.506 (Cleanliness), 1602.266(c) (providing that the amount of the student permit fee includes one examination fee and a transcript fee and is nonrefundable), and 1602.408 (Sanitation Requirements for Certain Services), Occupations Code.

**SECTION 22.** (a) Requires TDLR to issue a hair braiding specialty certificate of registration under Section 1601.259, Occupations Code, as added by this Act, to an applicant who applies for a certificate of registration under this section not later than October 1, 2007, has the experience required by this section, and pays the application fee.

(b) Provides that an applicant for a hair braiding specialty certificate of registration under this section is required to have practiced hair braiding in this state for at least 10 years before the regulation of hair braiding by Chapter 267, Acts of the 75th Legislature, Regular Session, 1997.

(c) Provides that this section expires on October 31, 2007.

**SECTION 23.** Requires the commission to adopt rules necessary to implement the changes in law made by this Act, not later than January 1, 2008, including rules to administer Sections 1601.258, 1601.259, 1602.354, and 1603.205, Occupations Code.

**SECTION 24.** Makes application of this Act to an application for licensure or renewal of a license, permit, or certificate that is filed with TDLR prospective.

**SECTION 25. Prohibits TDLR from issuing a license under Section 1603.205, Occupations Code, as added by this Act, before May 1, 2008.**

**SECTION 26. (a) Effective date: upon passage or September 1, 2007.**

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 17, 2007**

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** **HB2106** by Chisum (Relating to the regulation of barbering and cosmetology. ), **Committee Report 2nd House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend the Occupations Code relating to the regulation of barbering and cosmetology. The bill would provide for the establishment of the hair weaving specialty certificate of registration, the hair braiding specialty certificate of registration, and establish a dual barber and beauty shop license. The bill would limit the continuing education requirements for cosmetology licensees age 65 and older with at least 15 years of licensure. The bill would give the Executive Director of TDLR the authority to issue an emergency order to suspend or revoke a license or permit issued to barbers, cosmetologists, and related occupations; and would allow the Executive Director of TDLR to issue a cease and desist order under certain circumstances.

Based on information provided by TDLR, it is assumed that costs related to the duties and responsibilities associated with implementing the provisions of the bill could be covered by utilizing existing resources.

The bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2007.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 452 Department of Licensing and Regulation

**LBB Staff:** JOB, JRO, AH

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 10, 2007**

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB2106** by Chisum (Relating to the regulation of barbering and cosmetology.), **As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend the Occupations Code relating to the regulation of barbering and cosmetology. The bill would provide for the establishment of the hair weaving specialty certificate of registration, the hair braiding specialty certificate of registration, and establish a dual barber and beauty shop license. The bill would limit the continuing education requirements for cosmetology licensees age 65 and older with at least 15 years of licensure. The bill would give the Executive Director of TDLR the authority to issue an emergency order to suspend or revoke a license or permit issued to barbers, cosmetologists, and related occupations; and allow the Executive Director of TDLR to issue a cease and desist order under certain circumstances.

Based on information provided by TDLR, it is assumed that costs related to the duties and responsibilities associated with implementing the provisions of the bill could be covered by utilizing existing resources.

The bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2007.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 452 Department of Licensing and Regulation

**LBB Staff:** JOB, JRO, AH

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**April 2, 2007**

**TO:** Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** HB2106 by Chisum (relating to the regulation of barbering and cosmetology. ), **Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend the Occupations Code relating to the regulation of barbering and cosmetology. The bill would provide for the establishment of the hair weaving specialty certificate of registration, the hair braiding specialty certificate of registration, and establish a dual barber and beauty shop license. The bill would limit the continuing education requirements for cosmetology licensees age 65 and older with at least 15 years of licensure. The bill would require the Department of Licensing and Regulation (TDLR) to verify each applicant for the cosmetologist examination has paid all tuition owed to the school. The bill would give the Executive Director of TDLR the authority to issue an emergency order to suspend or revoke a license or permit issued to barbers, cosmetologists, and related occupations; and allow the Executive Director of TDLR to issue a cease and desist order under certain circumstances.

Based on information provided by TDLR, it is assumed that costs related to the duties and responsibilities associated with implementing the provisions of the bill could be covered by utilizing existing resources.

The provisions providing for the eligibility of the specialty certificate and the eligibility for the cosmetologist examination would take effect April 1, 2008. The remaining provisions of the bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2007.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 452 Department of Licensing and Regulation

**LBB Staff:** JOB, JRO, AH

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 26, 2007**

**TO:** Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB2106** by Chisum (Relating to the regulation of barbering and cosmetology.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Occupations Code relating to the regulation of barbering and cosmetology. The bill would provide for the establishment of the hair weaving specialty certificate of registration, the hair braiding specialty certificate of registration, and establish a dual barber and beauty shop license.

Based on information provided by the Department of Licensing and Regulation, it is assumed that costs related to the duties and responsibilities associated with implementing the provisions of the bill could be covered by utilizing existing resources.

The provisions providing for the dual barber and beauty shop license would take effect May 1, 2008. The remaining provisions of the bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2007.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 452 Department of Licensing and Regulation

**LBB Staff:** JOB, JRO, AH

# REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

SENATOR KIM BRIMER, CHAIRMAN  
SENATE COMMITTEE ON ADMINISTRATION

Notice is hereby given that CSHB 2100, by Chisom / Whitmire,  
(Bill No.) (Author/Sponsor)

was heard by the Committee on Business and Commerce on 5/15,  
2007,

and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.



(Clerk of the reporting committee)

**IMPORTANT: TWO COPIES OF THIS FORM MUST BE ATTACHED TO A COMMITTEE PRINTED VERSION OF THE BILL OR RESOLUTION AND SHOULD BE DELIVERED TO THE ADMINISTRATION COMMITTEE OFFICE, E1.714. DEADLINES FOR SUBMITTING BILLS AND RESOLUTIONS WILL BE ANNOUNCED ON A REGULAR BASIS.**

ADOPTED

MAY 23 2007

*Lotay Spaw*  
Secretary of the Senate

By: Whitman

H.B. No. 2106

Substitute the following for H.B. No. 2106:

By: Lucio

G.S. H.B. No. 2106

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of barbering and cosmetology.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1601.002, Occupations Code, is amended to read as follows:

Sec. 1601.002. DEFINITION OF BARBERING. In this chapter, "barbering," "practicing barbering," or the "practice of barbering" means:

(1) performing or offering or attempting to perform for compensation or the promise of compensation any of the following services:

(A) treating a person's mustache or beard by arranging, beautifying, coloring, processing, shaving, styling, or trimming;

(B) treating a person's hair by:

(i) arranging, beautifying, bleaching, cleansing, coloring, curling, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, tinting, or waving;

(ii) providing a necessary service that is preparatory or ancillary to a service under Subparagraph (i), including bobbing, clipping, cutting, or trimming; or

(iii) cutting the person's hair as a separate and independent service for which a charge is directly or



1 indirectly made separately from a charge for any other service;  
2 (C) cleansing, stimulating, or massaging a  
3 person's scalp, face, neck, arms, or shoulders:  
4 (i) by hand or by using a device, apparatus,  
5 or appliance; and  
6 (ii) with or without the use of any cosmetic  
7 preparation, antiseptic, tonic, lotion, or cream;  
8 (D) beautifying a person's face, neck, arms, or  
9 shoulders using a cosmetic preparation, antiseptic, tonic, lotion,  
10 powder, oil, clay, cream, or appliance;  
11 (E) treating a person's nails by:  
12 (i) cutting, trimming, polishing, tinting,  
13 coloring, cleansing, manicuring, or pedicuring; or  
14 (ii) attaching false nails;  
15 (F) massaging, cleansing, treating, or  
16 beautifying a person's hands;  
17 (G) administering facial treatments;  
18 (H) weaving a person's hair by using any method  
19 to attach commercial hair to a person's hair or scalp;  
20 (I) shampooing or conditioning a person's hair;  
21 [~~or~~]  
22 (J) servicing in any manner listed in Paragraph  
23 (B) a person's wig, toupee, or artificial hairpiece on a person's  
24 head or on a block after the initial retail sale; or  
25 (K) braiding a person's hair, trimming hair  
26 extensions only as applicable to the braiding process, and  
27 attaching commercial hair only by braiding and without the use of

1 chemicals or adhesives;

2 (2) advertising or representing to the public in any  
3 manner that a person is a barber or is authorized to practice  
4 barbering; or

5 (3) advertising or representing to the public in any  
6 manner that a location or place of business is a barbershop,  
7 specialty shop, or barber school.

8 SECTION 2. Section 1601.253(b), Occupations Code, is  
9 amended to read as follows:

10 (b) The department shall issue a Class A barber certificate  
11 to an applicant who:

12 (1) complies with the application requirements of this  
13 chapter;

14 (2) passes the applicable examination [~~with an average~~  
15 ~~grade of at least 75 percent~~];

16 (3) pays the required fee; and

17 (4) possesses the other qualifications required by  
18 this chapter.

19 SECTION 3. Subchapter F, Chapter 1601, Occupations Code, is  
20 amended by adding Sections 1601.258 and 1601.259 to read as  
21 follows:

22 Sec. 1601.258. ELIGIBILITY FOR HAIR WEAVING SPECIALTY  
23 CERTIFICATE OF REGISTRATION. (a) A person holding a hair weaving  
24 specialty certificate of registration may perform only barbering as  
25 defined by Section 1601.002(1)(H).

26 (b) An applicant for a hair weaving specialty certificate of  
27 registration must:

1           (1) be at least 17 years of age; and  
2           (2) satisfy the requirements specified by the  
3 department, including training through a commission-approved  
4 training program.

5           (c) The department shall issue a hair weaving specialty  
6 certificate of registration to an applicant who:

7           (1) possesses the qualifications described by  
8 Subsection (b);

9           (2) pays the required registration fee; and

10           (3) has not committed an act that constitutes a ground  
11 for denial of the certificate.

12           Sec. 1601.259. ELIGIBILITY FOR HAIR BRAIDING SPECIALTY  
13 CERTIFICATE OF REGISTRATION. (a) A person holding a hair braiding  
14 specialty certificate of registration may perform only barbering as  
15 defined by Section 1601.002(1)(K).

16           (b) An applicant for a hair braiding specialty certificate  
17 must:

18           (1) be at least 17 years of age; and

19           (2) satisfy the requirements specified by the  
20 department, including training through a commission-approved  
21 training program.

22           (c) The department shall issue a hair braiding specialty  
23 certificate of registration to an applicant who:

24           (1) possesses the qualifications described by  
25 Subsection (b);

26           (2) pays the required registration fee; and

27           (3) has not committed an act that constitutes a ground

1 for denial of the certificate.

2 SECTION 4. Section 1601.303, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1601.303. ISSUANCE OF BARBERSHOP PERMIT. The  
5 department shall issue a barbershop permit to an applicant if:

- 6 (1) the applicant owns the barbershop; ~~and~~  
7 (2) the applicant verifies the application; and  
8 (3) the shop meets the minimum health standards for  
9 barbershops set by the commission and complies with all other  
10 commission rules.

11 SECTION 5. Sections 1601.304 and 1601.305, Occupations  
12 Code, are amended to read as follows:

13 Sec. 1601.304. ~~[MANICURIST]~~ SPECIALTY SHOP PERMIT. (a) A  
14 person who holds a ~~[manicurist]~~ specialty shop permit may maintain  
15 an establishment in which only barbering as defined by Section  
16 ~~[Sections]~~ 1601.002(1)(E), ~~and~~ (F), (H), or (K) is performed. ~~[A~~  
17 ~~manicurist specialty shop may be operated only under the direction~~  
18 ~~of a person who holds a manicurist license.]~~

19 (b) An applicant for a ~~[manicurist]~~ specialty shop permit  
20 must submit:

- 21 (1) an application on a department-approved form ~~[that~~  
22 ~~includes:~~

- 23 ~~[(A) the shop's address,~~  
24 ~~[(B) the legal description of the premises for~~  
25 ~~which the permit is sought, and~~  
26 ~~[(C) any other information required by the~~  
27 ~~department]; and~~

1 (2) the required inspection fee.

2 [~~(c) As soon as practicable after receipt of the application~~  
3 ~~and fee, the department shall issue a temporary manicurist~~  
4 ~~specialty shop permit to the applicant. The applicant may operate~~  
5 ~~the applicant's shop under the temporary permit until a permanent~~  
6 ~~permit is issued.]~~

7 Sec. 1601.305. ISSUANCE OF [MANICURIST] SPECIALTY SHOP  
8 PERMIT. The department shall issue a [~~permanent manicurist~~]  
9 specialty shop permit to an applicant if:

10 (1) the applicant submits proof that the applicant  
11 satisfies the requirements established by the commission for a  
12 specialty shop [~~holds a manicurist license~~]; [~~and~~]

13 (2) the applicant pays the required inspection fee and  
14 permit fee;

15 (3) the applicant verifies the application and the  
16 application complies with commission rules; and

17 (4) the applicant has not committed an act that  
18 constitutes a ground for denial of a permit, certificate, or  
19 license under this chapter [~~the shop meets the minimum health~~  
20 ~~standards for manicurist specialty shops set by the commission, as~~  
21 ~~determined by a department inspection under Section 1603.103, and~~  
22 ~~any other requirements imposed by commission rule].~~

23 SECTION 6. Section 1601.353(a), Occupations Code, is  
24 amended to read as follows:

25 (a) The department may not approve an application for a  
26 permit for a barber school that provides training leading to  
27 issuance of a Class A barber certificate unless the school has:

1           (1) a [~~an adequate school site housed in a~~  
2 ~~substantial~~] building of permanent construction containing at  
3 least 2,800 square feet of floor space, divided into at least:

4                   (A) a senior department;

5                   (B) a junior department;

6                   (C) a class theory room;

7                   (D) a supply room;

8                   (E) an office space; and

9                   (F) [~~a dressing and cloak room, and~~

10                   [~~(G) two sanitary, modern,~~] separate restrooms  
11 for male and female students [~~, each equipped with one commode and~~  
12 ~~one of which is also equipped with a urinal~~];

13           (2) a hard-surface floor-covering of tile or other  
14 suitable material;

15           (3) at least 20 modern barber chairs, including a  
16 cabinet and mirror for each chair;

17                   (4) a sink [~~lavatory~~] behind every two barber chairs;

18                   (5) a liquid sterilizer for each barber chair;

19                   (6) an adequate number of latherers, vibrators, and  
20 hair dryers for student use;

21                   (7) adequate lighting for each room;

22                   (8) at least 20 classroom chairs, a blackboard,  
23 anatomical charts of the head, neck, and face, and one barber chair  
24 in the class theory room;

25                   (9) [~~a library with library facilities available to~~  
26 ~~students containing~~] at least one medical dictionary and a standard  
27 work on human anatomy;

1           (10) adequate drinking fountain facilities, with at  
2 least one for each floor; and  
3           (11) at least one fire extinguisher ~~[adequate~~  
4 ~~toilet facilities for the students, and~~  
5           ~~[(12) adequate fire-fighting equipment].~~

6           SECTION 7. Section 1601.453, Occupations Code, is amended  
7 to read as follows:

8           Sec. 1601.453. LOCATION OF PRACTICE. A person licensed by  
9 the department may practice barbering only at a location for which  
10 the department has issued a barbershop permit, specialty shop  
11 permit, or barber school permit under this chapter or a permit  
12 issued under Chapter 1603.

13          SECTION 8. Section 1602.256, Occupations Code, is amended  
14 to read as follows:

15          Sec. 1602.256. ELIGIBILITY FOR A MANICURIST SPECIALTY  
16 LICENSE. (a) A person holding a manicurist specialty license may  
17 perform only the practice of cosmetology defined in Section  
18 1602.002(a)(10) or (11) ~~[1602.002(9) or (10)]~~.

19          (b) To be eligible for a manicurist specialty license, an  
20 applicant must:

- 21           (1) be at least 17 years of age;  
22           (2) have obtained a high school diploma or the  
23 equivalent of a high school diploma or have passed a valid  
24 examination administered by a certified testing agency that  
25 measures the person's ability to benefit from training; and  
26           (3) have completed 600 hours of instruction in  
27 manicuring through a commission-approved training program.

1 SECTION 9. Section 1602.257(a), Occupations Code, is  
2 amended to read as follows:

3 (a) A person holding a facialist specialty license may  
4 perform only the practice of cosmetology defined in Sections  
5 1602.002(a)(6) through (9) [~~Section 1602.002(7)~~].

6 SECTION 10. Section 1602.258, Occupations Code, is amended  
7 to read as follows:

8 Sec. 1602.258. ELIGIBILITY FOR A SPECIALTY  
9 CERTIFICATE. (a) A person holding a specialty certificate may  
10 perform only the practice of cosmetology defined in Sections  
11 1602.002(a)(2) through (4) [~~Section 1602.002(2), (3), (4), or (7)~~].

12 (b) To be eligible for a specialty certificate, an applicant  
13 must:

14 (1) be at least 17 years of age; and

15 (2) [~~have obtained a high school diploma or the~~  
16 ~~equivalent of a high school diploma or have passed a valid~~  
17 ~~examination administered by a certified testing agency that~~  
18 ~~measures the person's ability to benefit from training; and~~

19 [(3)] have the necessary requisites as determined by  
20 the department in the particular specialty for which certification  
21 is sought, including training through a commission-approved  
22 training program.

23 SECTION 11. Section 1602.262(a), Occupations Code, is  
24 amended to read as follows:

25 (a) An applicant for an operator license, instructor  
26 license, manicurist specialty license, or facialist specialty  
27 license is entitled to the license if the applicant:



1           (1) meets the applicable eligibility requirements;  
2           (2) passes the applicable examination;  
3           (3) pays the required fee; and  
4           (4) has not committed an act that constitutes a ground  
5 for denial of the license.

6           SECTION 12. Section 1602.303(b)<sup>✓</sup>, Occupations Code, is  
7 amended to read as follows:

8           (b) An application for a private beauty culture school  
9 license must be accompanied by the required license fee and  
10 inspection fee and:

11           (1) be on a form prescribed by the department;  
12           (2) be verified by the applicant; and  
13           (3) ~~[contain a detailed floor plan of the school~~  
14 ~~building divided into two separate areas, one area for instruction~~  
15 ~~in theory and one area for clinic work, and~~

16           ~~[(4)]~~ contain a statement that the building:  
17           (A) ~~[is fireproof,~~  
18           ~~[(B)]~~ is of permanent construction and is divided  
19 into at least two separate areas:

20                       (i) one area for instruction in theory; and  
21                       (ii) one area for clinic work;  
22           (B) ~~[(C)]~~ contains a minimum of 3,500 square feet  
23 of floor space;  
24           (C) ~~[(D)]~~ has separate restrooms for male and  
25 female students; and  
26           (D) ~~[(E)]~~ contains, or will contain before  
27 classes begin, the equipment established by commission rule as

1 sufficient to properly instruct a minimum of 50 students.

2 SECTION 13. Section 1602.354<sup>✓</sup>, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1602.354. CONTINUING EDUCATION. (a) The commission  
5 will by rule recognize, prepare, or administer continuing education  
6 programs for the practice of cosmetology. Participation in the  
7 programs is mandatory for all license renewals.

8 (b) The commission may only require a license holder to  
9 complete continuing education of not more than four hours in health  
10 and safety courses if the license holder:

11 (1) is at least 65 years of age; and

12 (2) has held a cosmetology license for at least 15  
13 years.

14 SECTION 14. Section 1602.403(a)<sup>✓</sup>, Occupations Code, is  
15 amended to read as follows:

16 (a) A private beauty culture school may not employ:

17 (1) a person holding an operator license, manicurist  
18 specialty license, or specialty certificate solely to perform the  
19 practices of cosmetology for which the person is licensed or  
20 certified; or

21 (2) a person holding an instructor license to perform  
22 any act or practice of cosmetology. ✓

23 SECTION 15. Section 1603.103<sup>✓</sup>, Occupations Code, is amended  
24 to read as follows:

25 Sec. 1603.103. INSPECTION OF SCHOOLS [~~—SHOPS, —AND~~  
26 ~~FACILITIES~~] BEFORE OPERATION. (a) Until the department  
27 determines, by inspection, that the person has established the

1 school[, ~~shop, or facility~~] in compliance with this chapter,  
2 Chapter 1601, or Chapter 1602, a person may not operate a school[,  
3 ~~shop, or other facility~~] licensed or permitted under this chapter,  
4 Chapter 1601, or Chapter 1602.

5 (b) A school[, ~~shop, or other facility~~] that is not approved  
6 by the department on initial inspection may be reinspected.

7 (c) The department may charge the school[, ~~shop, or other~~  
8 ~~facility shall pay~~] a fee for each inspection. The commission shall  
9 by rule set the amount of the fee. ✓ ✓

10 SECTION 16. Sections 1603.104(b) and (e), Occupations Code,  
11 are amended to read as follows:

12 (b) At least once every two years, the department shall  
13 inspect each [~~school,~~] shop[, ] or other facility that holds a  
14 license, certificate, or permit in which the practice of barbering  
15 or cosmetology is performed under this chapter, Chapter 1601, or  
16 Chapter 1602<sup>u</sup>, and at least twice per year, the department shall  
17 inspect each school in which barbering or cosmetology is taught  
18 under this chapter, Chapter 1601, or Chapter 1602.

19 (e) The department may charge the school, shop, or other  
20 facility [~~shall pay~~] a fee for each inspection performed under  
21 Subsection (c). The commission shall by rule set the amount of the  
22 fee. ✓ ✓

23 SECTION 17. Subchapter C, Chapter 1603, Occupations Code,  
24 is amended by adding Section 1603.1045 to read as follows:

25 Sec. 1603.1045. CONTRACT TO PERFORM INSPECTIONS. The  
26 department may contract with a person to perform for the department  
27 inspections of a school, shop, or other facility under this

1 chapter, Chapter 1601, or Chapter 1602. ✓

2 SECTION 18. Subchapter E, Chapter 1603, Occupations Code,  
3 is amended by adding Sections 1603.205 and 1603.206 to read as  
4 follows:

5 Sec. 1603.205. DUAL BARBER AND BEAUTY SHOP LICENSE. (a) A  
6 person holding a dual barber and beauty shop license may own,  
7 operate, or manage a shop in which any practice of barbering defined  
8 by Section 1601.002(1) or cosmetology defined by Section  
9 1602.002(a) is performed.

10 (b) An applicant for a dual barber and beauty shop license  
11 must submit:

12 (1) an application on a department-approved form that  
13 is verified by the applicant;

14 (2) proof that the applicant meets the applicable  
15 requirements under Chapters 1601 and 1602 for obtaining a  
16 barbershop permit and a beauty shop license; and

17 (3) the required license fee.

18 (c) The department shall issue a dual barber and beauty shop  
19 license to an applicant that:

20 (1) meets the requirements under this chapter and  
21 Chapters 1601 and 1602;

22 (2) complies with commission rules; and

23 (3) pays the required fees.

24 (d) The holder of a dual barber and beauty shop license must  
25 comply with this chapter, Chapters 1601 and 1602, and commission  
26 rules related to barbering and cosmetology.

27 Sec. 1603.206. MOBILE SHOPS. (a) In this section, "mobile

shop" means a facility that is readily movable and where barbering, cosmetology, or both are practiced other than at a fixed location.

(b) A barbershop, beauty shop, or specialty shop licensed or permitted under this chapter, Chapter 1601, or Chapter 1602 may be a mobile shop.

(c) The commission may adopt rules to administer this section, including rules providing for:

- (1) the licensing or permitting of a mobile shop;
- (2) the fees for a mobile shop;
- (3) the operation of a mobile shop;
- (4) reporting requirements for a mobile shop; and
- (5) the inspection of a mobile shop.

SECTION 19. Section 1603.352, Occupations Code, is amended to read as follows:

Sec. 1603.352. STERILIZATION ~~[SANITATION]~~ REQUIREMENTS FOR CERTAIN SERVICES. (a) A person who holds a license, certificate, or permit issued under this chapter, Chapter 1601, or Chapter 1602 and who performs a barbering service described by Section 1601.002(1)(E) or (F) or a cosmetology service described by Section 1602.002(a)(10) or (11) ~~[1602.002(10) or (11)]~~.

~~[(1)]~~ shall, before performing the service, clean, disinfect, and sterilize with an autoclave or a dry heat, ultraviolet, or other department-approved sterilizer, in accordance with the sterilizer manufacturer's instructions, each metal [non-disposable] instrument, including metal nail clippers, cuticle pushers, cuticle nippers, and other metal instruments, used to perform the service ~~[, and~~

1           ~~[(2) may use a disposable supply or instrument only if~~  
2 ~~that supply or instrument is purchased at the location where the~~  
3 ~~service is performed or provided by the person on whom the service~~  
4 ~~is performed]~~.

5           (b) The owner or manager of a barber shop, barber school,  
6 beauty shop, specialty shop, ~~[or]~~ beauty culture school, or other  
7 facility licensed under this chapter, Chapter 1601, or Chapter  
8 1602, is responsible for providing an autoclave or a dry heat,  
9 ultraviolet, or other department-approved sterilizer for use in the  
10 shop or school as required by Subsection (a). An autoclave or a dry  
11 heat, ultraviolet, or other department-approved sterilizer used as  
12 required by Subsection (a) must be [+

13           ~~[(1) registered and]~~ listed with the United States  
14 ~~[federal]~~ Food and Drug Administration~~[, and~~

15           ~~[(2) used in accordance with the manufacturer's~~  
16 ~~instructions]~~.

17           (c) Each sterilized instrument must be stored in accordance  
18 with the manufacturer's instructions.

19           (d) This section does not apply to:

20                   (1) single-use instruments; or

21                   (2) nonmetal nail files, buffer blocks, pumice stones,  
22 nail brushes, or other similar instruments.

23           (e) The commission may adopt rules to administer this  
24 section.

25           SECTION 20. Subchapter J, Chapter 1603, Occupations Code,  
26 is amended by adding Sections 1603.455 and 1603.456 to read as  
27 follows:

1       Sec. 1603.455. EMERGENCY ORDERS. (a) The executive  
2 director may issue an emergency order to suspend or revoke a license  
3 or permit issued, or to cease the operation of an unsafe facility  
4 regulated, by the department under this title if the executive  
5 director determines that an emergency exists requiring immediate  
6 action to protect the public health and safety.

7       (b) The executive director may issue the emergency order  
8 with or without notice and hearing as the executive director  
9 considers practicable under the circumstances.

10       (c) If an emergency order is issued under this section  
11 without a hearing, the executive director, not later than the 10th  
12 day after the date the emergency order was issued, shall set the  
13 time and place for a hearing conducted by the State Office of  
14 Administrative Hearings to affirm, modify, or set aside the  
15 emergency order. The executive director shall set the hearing for a  
16 date not later than the 30th day after the date the time and place  
17 for the hearing are set. The hearing examiner shall affirm the  
18 order to the extent that reasonable cause existed to issue the  
19 order.

20       (d) The commission by rule may prescribe procedures for the  
21 issuance and appeal of an emergency order under this section,  
22 including a rule to allow the commission to affirm, modify, or set  
23 aside a decision by the State Office of Administrative Hearings  
24 under Subsection (c).

25       (e) A proceeding under this section is a contested case  
26 under Chapter 2001, Government Code.

27       Sec. 1603.456. CEASE AND DESIST ORDERS. The executive

1 director may issue a cease and desist order, after notice and  
2 opportunity for hearing, if the executive director determines that  
3 the order is necessary to prevent a violation of:

4 (1) this chapter, Chapter 1601, or Chapter 1602; or

5 (2) a rule adopted by the commission. ✓

6 SECTION 21. Sections 1601.506, 1602.266(c), and 1602.408,  
7 Occupations Code, are repealed.

8 SECTION 22. (a) The Texas Department of Licensing and  
9 Regulation shall issue a hair braiding specialty certificate of  
10 registration under Section 1601.259<sup>✓</sup>, Occupations Code, as added by  
11 this Act, to an applicant qualified under this section who:

12 (1) applies for a certificate of registration under  
13 this section not later than October 1, 2007;

14 (2) has the experience required by this section; and

15 (3) pays the application fee.

16 (b) An applicant for a hair braiding specialty certificate  
17 of registration under this section is required to have practiced  
18 hair braiding in this state for at least 10 years before the  
19 regulation of hair braiding by Chapter 267, Acts of the 75th  
20 Legislature, Regular Session, 1997.

21 (c) This section expires on October 31, 2007.

22 SECTION 23. Not later than January 1, 2008, the Texas  
23 Commission of Licensing and Regulation shall adopt rules necessary  
24 to implement the changes in law made by this Act, including rules to  
25 administer:

26 (1) Sections 1601.258 and 1601.259, Occupations Code,  
27 as added by this Act, related to eligibility for hair weaving and



1 hair braiding specialty certificates;

2 (2) Section 1602.354, Occupations Code, as amended by  
3 this Act, related to continuing education and renewal requirements;

4 (3) Section 1603.205, Occupations Code, as added by  
5 this Act, related to dual barber and beauty shop licenses.

6 SECTION 24. The changes in law made by this Act apply only  
7 to an application for the issuance or renewal of a license, permit,  
8 or certificate that is filed with the Texas Department of Licensing  
9 and Regulation on or after the effective date of this Act. An  
10 application for the issuance or renewal of a license, permit, or  
11 certificate that is filed before the effective date of this Act is  
12 governed by the law in effect on the date the application was filed,  
13 and the former law is continued in effect for that purpose.

14 SECTION 25. Notwithstanding Section 1603.205, Occupations  
15 Code, as added by this Act, the Texas Department of Licensing and  
16 Regulation may not issue a license under that section before May 1,  
17 2008.

18 SECTION 26. This Act takes effect immediately if it  
19 receives a vote of two-thirds of all the members elected to each  
20 house, as provided by Section 39, Article III, Texas Constitution.  
21 If this Act does not receive the vote necessary for immediate  
22 effect, this Act takes effect September 1, 2007.

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

07 MAY 23 PM 8: 04

HOUSE OF REPRESENTATIVES

By: Chisum, Deshotel, Hopson, Harper-Brown,  
Farabee

H.B. No. 2106

## A BILL TO BE ENTITLED

### AN ACT

relating to the regulation of barbering and cosmetology.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1601.002, Occupations Code, is amended to read as follows:

Sec. 1601.002. DEFINITION OF BARBERING. In this chapter, "barbering," "practicing barbering," or the "practice of barbering" means:

(1) performing or offering or attempting to perform for compensation or the promise of compensation any of the following services:

(A) treating a person's mustache or beard by arranging, beautifying, coloring, processing, shaving, styling, or trimming;

(B) treating a person's hair by:

(i) arranging, beautifying, bleaching, cleansing, coloring, curling, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, tinting, or waving;

(ii) providing a necessary service that is preparatory or ancillary to a service under Subparagraph (i), including bobbing, clipping, cutting, or trimming; or

(iii) cutting the person's hair as a separate and independent service for which a charge is directly or

1 indirectly made separately from a charge for any other service;

2 (C) cleansing, stimulating, or massaging a  
3 person's scalp, face, neck, arms, or shoulders:

4 (i) by hand or by using a device, apparatus,  
5 or appliance; and

6 (ii) with or without the use of any cosmetic  
7 preparation, antiseptic, tonic, lotion, or cream;

8 (D) beautifying a person's face, neck, arms, or  
9 shoulders using a cosmetic preparation, antiseptic, tonic, lotion,  
10 powder, oil, clay, cream, or appliance;

11 (E) treating a person's nails by:

12 (i) cutting, trimming, polishing, tinting,  
13 coloring, cleansing, manicuring, or pedicuring; or

14 (ii) attaching false nails;

15 (F) massaging, cleansing, treating, or  
16 beautifying a person's hands;

17 (G) administering facial treatments;

18 (H) weaving a person's hair by using any method  
19 to attach commercial hair to a person's hair or scalp;

20 (I) shampooing or conditioning a person's hair;

21 [~~or~~]

22 (J) servicing in any manner listed in Paragraph

23 (B) a person's wig, toupee, or artificial hairpiece on a person's  
24 head or on a block after the initial retail sale; or

25 (K) braiding a person's hair, trimming hair  
26 extensions only as applicable to the braiding process, and  
27 attaching commercial hair only by braiding and without the use of

1 chemicals or adhesives;

2 (2) advertising or representing to the public in any  
3 manner that a person is a barber or is authorized to practice  
4 barbering; or

5 (3) advertising or representing to the public in any  
6 manner that a location or place of business is a barbershop,  
7 specialty shop, or barber school.

8 SECTION 2. Section 1601.253(b), Occupations Code, is  
9 amended to read as follows:

10 (b) The department shall issue a Class A barber certificate  
11 to an applicant who:

12 (1) complies with the application requirements of this  
13 chapter;

14 (2) passes the applicable examination [~~with an average~~  
15 ~~grade of at least 75 percent~~];

16 (3) pays the required fee; and

17 (4) possesses the other qualifications required by  
18 this chapter.

19 SECTION 3. Subchapter F, Chapter 1601, Occupations Code, is  
20 amended by adding Sections 1601.258 and 1601.259 to read as  
21 follows:

22 Sec. 1601.258. ELIGIBILITY FOR HAIR WEAVING SPECIALTY  
23 CERTIFICATE OF REGISTRATION. (a) A person holding a hair weaving  
24 specialty certificate of registration may perform only barbering as  
25 defined by Section 1601.002(1)(H).

26 (b) An applicant for a hair weaving specialty certificate of  
27 registration must:

1           (1) be at least 17 years of age; and

2           (2) satisfy the requirements specified by the  
3 department, including training through a commission-approved  
4 training program.

5           (c) The department shall issue a hair weaving specialty  
6 certificate of registration to an applicant who:

7           (1) possesses the qualifications described by  
8 Subsection (b);

9           (2) pays the required registration fee; and

10           (3) has not committed an act that constitutes a ground  
11 for denial of the certificate.

12           Sec. 1601.259. ELIGIBILITY FOR HAIR BRAIDING SPECIALTY  
13 CERTIFICATE OF REGISTRATION. (a) A person holding a hair braiding  
14 specialty certificate of registration may perform only barbering as  
15 defined by Section 1601.002(1)(K).

16           (b) An applicant for a hair braiding specialty certificate  
17 must:

18           (1) be at least 17 years of age; and

19           (2) satisfy the requirements specified by the  
20 department, including training through a commission-approved  
21 training program.

22           (c) The department shall issue a hair braiding specialty  
23 certificate of registration to an applicant who:

24           (1) possesses the qualifications described by  
25 Subsection (b);

26           (2) pays the required registration fee; and

27           (3) has not committed an act that constitutes a ground

1 for denial of the certificate.

2 SECTION 4. Section 1601.303, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1601.303. ISSUANCE OF BARBERSHOP PERMIT. The  
5 department shall issue a barbershop permit to an applicant if:

6 (1) the applicant owns the barbershop; ~~and~~

7 (2) the applicant verifies the application; and

8 (3) the shop meets the minimum health standards for  
9 barbershops set by the commission and complies with all other  
10 commission rules.

11 SECTION 5. Sections 1601.304 and 1601.305, Occupations  
12 Code, are amended to read as follows:

13 Sec. 1601.304. ~~[MANICURIST]~~ SPECIALTY SHOP PERMIT. (a) A  
14 person who holds a ~~[manicurist]~~ specialty shop permit may maintain  
15 an establishment in which only barbering as defined by Section  
16 ~~[Sections]~~ 1601.002(1)(E), ~~and~~ (F), (H), or (K) is performed. ~~[A~~  
17 ~~manicurist specialty shop may be operated only under the direction~~  
18 ~~of a person who holds a manicurist license.]~~

19 (b) An applicant for a ~~[manicurist]~~ specialty shop permit  
20 must submit:

21 (1) an application on a department-approved form ~~[that~~  
22 ~~includes:~~

23 ~~[(A) the shop's address,~~

24 ~~[(B) the legal description of the premises for~~  
25 ~~which the permit is sought, and~~

26 ~~[(C) any other information required by the~~  
27 ~~department]; and~~

(2) the required inspection fee.

~~[(c) As soon as practicable after receipt of the application and fee, the department shall issue a temporary manicurist specialty shop permit to the applicant. The applicant may operate the applicant's shop under the temporary permit until a permanent permit is issued.]~~

Sec. 1601.305. ISSUANCE OF [MANICURIST] SPECIALTY SHOP PERMIT. The department shall issue a [permanent manicurist] specialty shop permit to an applicant if:

(1) the applicant submits proof that the applicant satisfies the requirements established by the commission for a specialty shop ~~[holds a manicurist license]; [and]~~

(2) the applicant pays the required inspection fee and permit fee;

(3) the applicant verifies the application and the application complies with commission rules; and

(4) the applicant has not committed an act that constitutes a ground for denial of a permit, certificate, or license under this chapter ~~[the shop meets the minimum health standards for manicurist specialty shops set by the commission, as determined by a department inspection under Section 1603.103, and any other requirements imposed by commission rule].~~

SECTION 6. Section 1601.353(a), Occupations Code, is amended to read as follows:

(a) The department may not approve an application for a permit for a barber school that provides training leading to issuance of a Class A barber certificate unless the school has:

1           (1) a [~~an adequate school site housed in a~~  
2 ~~substantial~~] building of permanent construction containing at  
3 least 2,800 square feet of floor space, divided into at least:

4                   (A) a senior department;

5                   (B) a junior department;

6                   (C) a class theory room;

7                   (D) a supply room;

8                   (E) an office space; and

9                   (F) [~~a dressing and cloak room, and~~

10                   [~~(G) two sanitary, modern,~~] separate restrooms  
11 for male and female students [~~, each equipped with one commode and~~  
12 ~~one of which is also equipped with a urinal~~];

13           (2) a hard-surface floor-covering of tile or other  
14 suitable material;

15           (3) at least 20 modern barber chairs, including a  
16 cabinet and mirror for each chair;

17           (4) a sink for [~~lavatory behind~~] every two barber  
18 chairs;

19           (5) a liquid sterilizer for each barber chair;

20           (6) an adequate number of latherers, vibrators, and  
21 hair dryers for student use;

22           (7) adequate lighting for each room;

23           (8) at least 20 classroom chairs, a blackboard,  
24 anatomical charts of the head, neck, and face, and one barber chair  
25 in the class theory room;

26           (9) [~~a library with library facilities available to~~  
27 ~~students containing~~] at least one medical dictionary and a standard



1 work on human anatomy;

2 (10) adequate drinking fountain facilities, with at  
3 least one for each floor; and

4 (11) at least one fire extinguisher [~~adequate~~  
5 ~~toilet facilities for the students, and~~

6 [~~(12) adequate fire-fighting equipment~~].

7 SECTION 7. Section 1601.453, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1601.453. LOCATION OF PRACTICE. A person licensed by  
10 the department may practice barbering only at a location for which  
11 the department has issued a barbershop permit, specialty shop  
12 permit, or barber school permit under this chapter or a permit  
13 issued under Chapter 1603.

14 SECTION 8. Section 1602.256, Occupations Code, is amended  
15 to read as follows:

16 Sec. 1602.256. ELIGIBILITY FOR A MANICURIST SPECIALTY  
17 LICENSE. (a) A person holding a manicurist specialty license may  
18 perform only the practice of cosmetology defined in Section  
19 1602.002(a)(10) or (11) [~~1602.002(9) or (10)~~].

20 (b) To be eligible for a manicurist specialty license, an  
21 applicant must:

22 (1) be at least 17 years of age;

23 (2) have obtained a high school diploma or the  
24 equivalent of a high school diploma or have passed a valid  
25 examination administered by a certified testing agency that  
26 measures the person's ability to benefit from training; and

27 (3) have completed 600 hours of instruction in

manicuring through a commission-approved training program.

SECTION 9. Section 1602.257(a), Occupations Code, is amended to read as follows:

(a) A person holding a facialist specialty license may perform only the practice of cosmetology defined in Sections 1602.002(a)(6) through (9) [~~Section 1602.002(7)~~].

SECTION 10. Section 1602.258, Occupations Code, is amended to read as follows:

Sec. 1602.258. ELIGIBILITY FOR A SPECIALTY CERTIFICATE. (a) A person holding a specialty certificate may perform only the practice of cosmetology defined in Sections 1602.002(a)(2) through (4) [~~Section 1602.002(2), (3), (4), or (7)~~].

(b) To be eligible for a specialty certificate, an applicant must:

(1) be at least 17 years of age; and

(2) [~~have obtained a high school diploma or the equivalent of a high school diploma or have passed a valid examination administered by a certified testing agency that measures the person's ability to benefit from training, and~~

~~(3)~~ have the necessary requisites as determined by the department in the particular specialty for which certification is sought, including training through a commission-approved training program.

SECTION 11. Section 1602.262(a), Occupations Code, is amended to read as follows:

(a) An applicant for an operator license, instructor license, manicurist specialty license, or facialist specialty

license is entitled to the license if the applicant:

- (1) meets the applicable eligibility requirements;
- (2) passes the applicable examination;
- (3) pays the required fee; and
- (4) has not committed an act that constitutes a ground for denial of the license.

SECTION 12. Section 1602.303(b), Occupations Code, is amended to read as follows:

(b) An application for a private beauty culture school license must be accompanied by the required license fee and inspection fee and:

- (1) be on a form prescribed by the department;
- (2) be verified by the applicant; and
- (3) ~~[contain a detailed floor plan of the school building divided into two separate areas, one area for instruction in theory and one area for clinic work, and~~

~~[(4)]~~ contain a statement that the building:

- (A) ~~[is fireproof,~~
- ~~[(B)]~~ is of permanent construction and is divided into at least two separate areas:

- (i) one area for instruction in theory; and
- (ii) one area for clinic work;

(B) ~~[(C)]~~ contains a minimum of 3,500 square feet of floor space;

(C) ~~[(D)]~~ has separate restrooms for male and female students; and

(D) ~~[(E)]~~ contains, or will contain before

1 classes begin, the equipment established by commission rule as  
2 sufficient to properly instruct a minimum of 50 students.

3 SECTION 13. Section 1602.354, Occupations Code, is amended  
4 to read as follows:

5 Sec. 1602.354. CONTINUING EDUCATION. (a) The commission  
6 will by rule recognize, prepare, or administer continuing education  
7 programs for the practice of cosmetology. Participation in the  
8 programs is mandatory for all license renewals.

9 (b) The commission may only require a license holder to  
10 complete continuing education of not more than four hours in health  
11 and safety courses if the license holder:

12 (1) is at least 65 years of age; and

13 (2) has held a cosmetology license for at least 15  
14 years.

15 SECTION 14. Section 1602.403(a), Occupations Code, is  
16 amended to read as follows:

17 (a) A private beauty culture school may not employ:

18 (1) a person holding an operator license, manicurist  
19 specialty license, or specialty certificate solely to perform the  
20 practices of cosmetology for which the person is licensed or  
21 certified; or

22 (2) a person holding an instructor license to perform  
23 any act or practice of cosmetology.

24 SECTION 15. Section 1603.103, Occupations Code, is amended  
25 to read as follows:

26 Sec. 1603.103. INSPECTION OF SCHOOLS[, ~~SHOPS,~~ ~~AND~~  
27 ~~FACILITIES~~] BEFORE OPERATION. (a) Until the department

determines, by inspection, that the person has established the school[, ~~shop, or facility~~] in compliance with this chapter, Chapter 1601, or Chapter 1602, a person may not operate a school[, ~~shop, or other facility~~] licensed or permitted under this chapter, Chapter 1601, or Chapter 1602.

(b) A school[, ~~shop, or other facility~~] that is not approved by the department on initial inspection may be reinspected.

(c) The department may charge the school[, ~~shop, or other facility shall pay~~] a fee for each inspection. The commission shall by rule set the amount of the fee.

SECTION 16. Sections 1603.104(b) and (e), Occupations Code, are amended to read as follows:

(b) At least once every two years, the department shall inspect each [~~school,~~] shop[, ] or other facility that holds a license, certificate, or permit in which the practice of barbering or cosmetology is performed under this chapter, Chapter 1601, or Chapter 1602, and at least twice per year, the department shall inspect each school in which barbering or cosmetology is taught under this chapter, Chapter 1601, or Chapter 1602.

(e) The department may charge the school, shop, or other facility [~~shall pay~~] a fee for each inspection performed under this section [~~Subsection (c)~~]. The commission shall by rule set the amount of the fee.

SECTION 17. Subchapter C, Chapter 1603, Occupations Code, is amended by adding Section 1603.1045 to read as follows:

Sec. 1603.1045. CONTRACT TO PERFORM INSPECTIONS. The department may contract with a person to perform for the department

1 inspections of a school, shop, or other facility under this  
2 chapter, Chapter 1601, or Chapter 1602.

3 SECTION 18. Subchapter E, Chapter 1603, Occupations Code,  
4 is amended by adding Section 1603.205 to read as follows:

5 Sec. 1603.205. DUAL BARBER AND BEAUTY SHOP LICENSE. (a) A  
6 person holding a dual barber and beauty shop license may own,  
7 operate, or manage a shop in which any practice of barbering defined  
8 by Section 1601.002(1) or cosmetology defined by Section  
9 1602.002(a) is performed.

10 (b) An applicant for a dual barber and beauty shop license  
11 must submit:

12 (1) an application on a department-approved form that  
13 is verified by the applicant;

14 (2) proof that the applicant meets the applicable  
15 requirements under Chapters 1601 and 1602 for obtaining a  
16 barbershop permit and a beauty shop license; and

17 (3) the required license fee.

18 (c) The department shall issue a dual barber and beauty shop  
19 license to an applicant that:

20 (1) meets the requirements under this chapter and  
21 Chapters 1601 and 1602;

22 (2) complies with commission rules; and

23 (3) pays the required fees.

24 (d) The holder of a dual barber and beauty shop license must  
25 comply with this chapter, Chapters 1601 and 1602, and commission  
26 rules related to barbering and cosmetology.

27 SECTION 19. Section 1603.352, Occupations Code, is amended

to read as follows:

Sec. 1603.352. STERILIZATION [~~SANITATION~~] REQUIREMENTS FOR CERTAIN SERVICES. (a) A person who holds a license, certificate, or permit issued under this chapter, Chapter 1601, or Chapter 1602 and who performs a barbering service described by Section 1601.002(1)(E) or (F) or a cosmetology service described by Section 1602.002(a)(10) or (11) [~~1602.002(10) or (11)~~].

~~[(1)]~~ shall, before performing the service, clean, disinfect, and sterilize with an autoclave or a dry heat, ultraviolet, or other department-approved sterilizer, in accordance with the sterilizer manufacturer's instructions, each metal [nondisposable] instrument, including metal nail clippers, cuticle pushers, cuticle nippers, and other metal instruments, used to perform the service[~~, and~~

~~[(2)] may use a disposable supply or instrument only if that supply or instrument is purchased at the location where the service is performed or provided by the person on whom the service is performed~~].

(b) The owner or manager of a barber shop, barber school, beauty shop, specialty shop, [~~or~~] beauty culture school, or other facility licensed under this chapter, Chapter 1601, or Chapter 1602, is responsible for providing an autoclave or a dry heat, ultraviolet, or other department-approved sterilizer for use in the shop or school as required by Subsection (a). An autoclave or a dry heat, ultraviolet, or other department-approved sterilizer used as required by Subsection (a) must be[~~,~~

~~[(1)] registered and~~ listed with the United States

1 ~~[federal]~~ Food and Drug Administration~~[, and~~  
2 ~~[(2) used in accordance with the manufacturer's~~  
3 ~~instructions]~~.

4 (c) Each sterilized instrument must be stored in accordance  
5 with the manufacturer's instructions.

6 (d) This section does not apply to:

7 (1) single-use instruments; or

8 (2) nonmetal nail files, buffer blocks, pumice stones,  
9 nail brushes, or other similar instruments.

10 (e) The commission may adopt rules to administer this  
11 section.

12 SECTION 20. Subchapter J, Chapter 1603, Occupations Code,  
13 is amended by adding Sections 1603.455 and 1603.456 to read as  
14 follows:

15 Sec. 1603.455. EMERGENCY ORDERS. (a) The executive  
16 director may issue an emergency order to suspend or revoke a license  
17 or permit issued, or to cease the operation of an unsafe facility  
18 regulated, by the department under this title if the executive  
19 director determines that an emergency exists requiring immediate  
20 action to protect the public health and safety.

21 (b) The executive director may issue the emergency order  
22 with or without notice and hearing as the executive director  
23 considers practicable under the circumstances.

24 (c) If an emergency order is issued under this section  
25 without a hearing, the executive director, not later than the 10th  
26 day after the date the emergency order was issued, shall set the  
27 time and place for a hearing conducted by the State Office of



1 Administrative Hearings to affirm, modify, or set aside the  
2 emergency order. The executive director shall set the hearing for a  
3 date not later than the 30th day after the date the time and place  
4 for the hearing are set. The hearing examiner shall affirm the  
5 order to the extent that reasonable cause existed to issue the  
6 order.

7 (d) The commission by rule may prescribe procedures for the  
8 issuance and appeal of an emergency order under this section,  
9 including a rule to allow the commission to affirm, modify, or set  
10 aside a decision by the State Office of Administrative Hearings  
11 under Subsection (c).

12 (e) A proceeding under this section is a contested case  
13 under Chapter 2001, Government Code.

14 Sec. 1603.456. CEASE AND DESIST ORDERS. The executive  
15 director may issue a cease and desist order, after notice and  
16 opportunity for hearing, if the executive director determines that  
17 the order is necessary to prevent a violation of:

18 (1) this chapter, Chapter 1601, or Chapter 1602; or

19 (2) a rule adopted by the commission.

20 SECTION 21. Sections 1601.506, 1602.266(c), and 1602.408,  
21 Occupations Code, are repealed.

22 SECTION 22. (a) The Texas Department of Licensing and  
23 Regulation shall issue a hair braiding specialty certificate of  
24 registration under Section 1601.259, Occupations Code, as added by  
25 this Act, to an applicant qualified under this section who:

26 (1) applies for a certificate of registration under  
27 this section not later than October 1, 2007;

1           (2) has the experience required by this section; and

2           (3) pays the application fee.

3           (b) An applicant for a hair braiding specialty certificate  
4 of registration under this section is required to have practiced  
5 hair braiding in this state for at least 10 years before the  
6 regulation of hair braiding by Chapter 267, Acts of the 75th  
7 Legislature, Regular Session, 1997.

8           (c) This section expires on October 31, 2007.

9           SECTION 23. Not later than January 1, 2008, the Texas  
10 Commission of Licensing and Regulation shall adopt rules necessary  
11 to implement the changes in law made by this Act, including rules to  
12 administer:

13           (1) Sections 1601.258 and 1601.259, Occupations Code,  
14 as added by this Act, related to eligibility for hair weaving and  
15 hair braiding specialty certificates;

16           (2) Section 1602.354, Occupations Code, as amended by  
17 this Act, related to continuing education and renewal requirements;

18           (3) Sections 1602.466 and 1603.258, Occupations Code,  
19 as added by this Act, related to the requirement that an applicant  
20 for a cosmetologist examination may not owe tuition to a beauty  
21 culture school; and

22           (4) Section 1603.205, Occupations Code, as added by  
23 this Act, related to dual barber and beauty shop licenses.

24           SECTION 24. The changes in law made by this Act apply only  
25 to an application for the issuance or renewal of a license, permit,  
26 or certificate that is filed with the Texas Department of Licensing  
27 and Regulation on or after the effective date of this Act. An

1 application for the issuance or renewal of a license, permit, or  
2 certificate that is filed before the effective date of this Act is  
3 governed by the law in effect on the date the application was filed,  
4 and the former law is continued in effect for that purpose.

5 SECTION 25. Notwithstanding Section 1603.205, Occupations  
6 Code, as added by this Act, the Texas Department of Licensing and  
7 Regulation may not issue a license under that section before May 1,  
8 2008.

9 SECTION 26. (a) Except as provided by Subsection (b) of  
10 this section, this Act takes effect immediately if it receives a  
11 vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2007.

15 (b) Sections 1602.466 and 1603.258, Occupations Code, as  
16 added by this Act, take effect April 1, 2008.

ADOPTED

MAY 23 2007

*Atty. Gen.*  
Secretary of the Senate

By: Whitmore

H.B. No. 2106

Substitute the following for H.B. No. 2106:

By: Lucio

C.S. H.B. No. 2106

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of barbering and cosmetology.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1601.002, Occupations Code, is amended to read as follows:

Sec. 1601.002. DEFINITION OF BARBERING. In this chapter, "barbering," "practicing barbering," or the "practice of barbering" means:

(1) performing or offering or attempting to perform for compensation or the promise of compensation any of the following services:

(A) treating a person's mustache or beard by arranging, beautifying, coloring, processing, shaving, styling, or trimming;

(B) treating a person's hair by:

(i) arranging, beautifying, bleaching, cleansing, coloring, curling, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, tinting, or waving;

(ii) providing a necessary service that is preparatory or ancillary to a service under Subparagraph (i), including bobbing, clipping, cutting, or trimming; or

(iii) cutting the person's hair as a separate and independent service for which a charge is directly or

1 indirectly made separately from a charge for any other service;

2 (C) cleansing, stimulating, or massaging a  
3 person's scalp, face, neck, arms, or shoulders:

4 (i) by hand or by using a device, apparatus,  
5 or appliance; and

6 (ii) with or without the use of any cosmetic  
7 preparation, antiseptic, tonic, lotion, or cream;

8 (D) beautifying a person's face, neck, arms, or  
9 shoulders using a cosmetic preparation, antiseptic, tonic, lotion,  
10 powder, oil, clay, cream, or appliance;

11 (E) treating a person's nails by:

12 (i) cutting, trimming, polishing, tinting,  
13 coloring, cleansing, manicuring, or pedicuring; or

14 (ii) attaching false nails;

15 (F) massaging, cleansing, treating, or  
16 beautifying a person's hands;

17 (G) administering facial treatments;

18 (H) weaving a person's hair by using any method  
19 to attach commercial hair to a person's hair or scalp;

20 (I) shampooing or conditioning a person's hair;

21 [~~or~~]

22 (J) servicing in any manner listed in Paragraph  
23 (B) a person's wig, toupee, or artificial hairpiece on a person's  
24 head or on a block after the initial retail sale; or

25 (K) braiding a person's hair, trimming hair  
26 extensions only as applicable to the braiding process, and  
27 attaching commercial hair only by braiding and without the use of

1 chemicals or adhesives;

2 (2) advertising or representing to the public in any  
3 manner that a person is a barber or is authorized to practice  
4 barbering; or

5 (3) advertising or representing to the public in any  
6 manner that a location or place of business is a barbershop,  
7 specialty shop, or barber school.

8 SECTION 2. Section 1601.253(b), Occupations Code, is  
9 amended to read as follows:

10 (b) The department shall issue a Class A barber certificate  
11 to an applicant who:

12 (1) complies with the application requirements of this  
13 chapter;

14 (2) passes the applicable examination [~~with an average~~  
15 ~~grade of at least 75 percent~~];

16 (3) pays the required fee; and

17 (4) possesses the other qualifications required by  
18 this chapter.

19 SECTION 3. Subchapter F, Chapter 1601, Occupations Code, is  
20 amended by adding Sections 1601.258 and 1601.259 to read as  
21 follows:

22 Sec. 1601.258. ELIGIBILITY FOR HAIR WEAVING SPECIALTY  
23 CERTIFICATE OF REGISTRATION. (a) A person holding a hair weaving  
24 specialty certificate of registration may perform only barbering as  
25 defined by Section 1601.002(1)(H).

26 (b) An applicant for a hair weaving specialty certificate of  
27 registration must:

1           (1) be at least 17 years of age; and  
2           (2) satisfy the requirements specified by the  
3 department, including training through a commission-approved  
4 training program.

5           (c) The department shall issue a hair weaving specialty  
6 certificate of registration to an applicant who:

7           (1) possesses the qualifications described by  
8 Subsection (b);

9           (2) pays the required registration fee; and

10           (3) has not committed an act that constitutes a ground  
11 for denial of the certificate.

12           Sec. 1601.259. ELIGIBILITY FOR HAIR BRAIDING SPECIALTY  
13 CERTIFICATE OF REGISTRATION. (a) A person holding a hair braiding  
14 specialty certificate of registration may perform only barbering as  
15 defined by Section 1601.002(1)(K).

16           (b) An applicant for a hair braiding specialty certificate  
17 must:

18           (1) be at least 17 years of age; and

19           (2) satisfy the requirements specified by the  
20 department, including training through a commission-approved  
21 training program.

22           (c) The department shall issue a hair braiding specialty  
23 certificate of registration to an applicant who:

24           (1) possesses the qualifications described by  
25 Subsection (b);

26           (2) pays the required registration fee; and

27           (3) has not committed an act that constitutes a ground

1 for denial of the certificate.

2 SECTION 4. Section 1601.303, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1601.303. ISSUANCE OF BARBERSHOP PERMIT. The  
5 department shall issue a barbershop permit to an applicant if:

6 (1) the applicant owns the barbershop; ~~[and]~~

7 (2) the applicant verifies the application; and

8 (3) the shop meets the minimum health standards for  
9 barbershops set by the commission and complies with all other  
10 commission rules.

11 SECTION 5. Sections 1601.304 and 1601.305, Occupations  
12 Code, are amended to read as follows:

13 Sec. 1601.304. ~~[MANICURIST]~~ SPECIALTY SHOP PERMIT. (a) A  
14 person who holds a ~~[manicurist]~~ specialty shop permit may maintain  
15 an establishment in which only barbering as defined by Section  
16 ~~[Sections]~~ 1601.002(1)(E), ~~[and]~~ (F), (H), or (K) is performed. ~~[A~~  
17 ~~manicurist specialty shop may be operated only under the direction~~  
18 ~~of a person who holds a manicurist license.]~~

19 (b) An applicant for a ~~[manicurist]~~ specialty shop permit  
20 must submit:

21 (1) an application on a department-approved form ~~[that~~  
22 ~~includes:~~

23 ~~[(A) the shop's address,~~

24 ~~[(B) the legal description of the premises for~~  
25 ~~which the permit is sought, and~~

26 ~~[(C) any other information required by the~~  
27 ~~department]; and~~



1 (2) the required inspection fee.

2 [~~(c) As soon as practicable after receipt of the application~~  
3 ~~and fee, the department shall issue a temporary manicurist~~  
4 ~~specialty shop permit to the applicant. The applicant may operate~~  
5 ~~the applicant's shop under the temporary permit until a permanent~~  
6 ~~permit is issued.~~]

7 Sec. 1601.305. ISSUANCE OF [MANICURIST] SPECIALTY SHOP  
8 PERMIT. The department shall issue a [~~permanent manicurist~~]  
9 specialty shop permit to an applicant if:

10 (1) the applicant submits proof that the applicant  
11 satisfies the requirements established by the commission for a  
12 specialty shop [~~holds a manicurist license~~]; [and]

13 (2) the applicant pays the required inspection fee and  
14 permit fee;

15 (3) the applicant verifies the application and the  
16 application complies with commission rules; and

17 (4) the applicant has not committed an act that  
18 constitutes a ground for denial of a permit, certificate, or  
19 license under this chapter [~~the shop meets the minimum health~~  
20 ~~standards for manicurist specialty shops set by the commission, as~~  
21 ~~determined by a department inspection under Section 1603.103, and~~  
22 ~~any other requirements imposed by commission rule~~].

23 SECTION 6. Section 1601.353(a), Occupations Code, is  
24 amended to read as follows:

25 (a) The department may not approve an application for a  
26 permit for a barber school that provides training leading to  
27 issuance of a Class A barber certificate unless the school has:

1           (1) a [~~an adequate school site housed in a~~  
2 ~~substantial~~] building of permanent construction containing at  
3 least 2,800 square feet of floor space, divided into at least:

4                   (A) a senior department;

5                   (B) a junior department;

6                   (C) a class theory room;

7                   (D) a supply room;

8                   (E) an office space; and

9                   (F) [~~a dressing and cloak room, and~~

10                   [~~(G) two sanitary, modern,~~] separate restrooms  
11 for male and female students[~~, each equipped with one commode and~~  
12 ~~one of which is also equipped with a urinal~~];

13           (2) a hard-surface floor-covering of tile or other  
14 suitable material;

15           (3) at least 20 modern barber chairs, including a  
16 cabinet and mirror for each chair;

17                   (4) a sink [~~lavatory~~] behind every two barber chairs;

18                   (5) a liquid sterilizer for each barber chair;

19                   (6) an adequate number of latherers, vibrators, and  
20 hair dryers for student use;

21                   (7) adequate lighting for each room;

22                   (8) at least 20 classroom chairs, a blackboard,  
23 anatomical charts of the head, neck, and face, and one barber chair  
24 in the class theory room;

25                   (9) [~~a library with library facilities available to~~  
26 ~~students containing~~] at least one medical dictionary and a standard  
27 work on human anatomy;

1           (10) adequate drinking fountain facilities, with at  
2 least one for each floor; and

3           (11) at least one fire extinguisher [~~adequate~~  
4 ~~toilet facilities for the students, and~~

5           ~~[(12) adequate fire-fighting equipment]~~.

6           SECTION 7. Section 1601.453, Occupations Code, is amended  
7 to read as follows:

8           Sec. 1601.453. LOCATION OF PRACTICE. A person licensed by  
9 the department may practice barbering only at a location for which  
10 the department has issued a barbershop permit, specialty shop  
11 permit, or barber school permit under this chapter or a permit  
12 issued under Chapter 1603.

13          SECTION 8. Section 1602.256, Occupations Code, is amended  
14 to read as follows:

15          Sec. 1602.256. ELIGIBILITY FOR A MANICURIST SPECIALTY  
16 LICENSE. (a) A person holding a manicurist specialty license may  
17 perform only the practice of cosmetology defined in Section  
18 1602.002(a)(10) or (11) [~~1602.002(9) or (10)~~].

19          (b) To be eligible for a manicurist specialty license, an  
20 applicant must:

21           (1) be at least 17 years of age;

22           (2) have obtained a high school diploma or the  
23 equivalent of a high school diploma or have passed a valid  
24 examination administered by a certified testing agency that  
25 measures the person's ability to benefit from training; and

26           (3) have completed 600 hours of instruction in  
27 manicuring through a commission-approved training program.

1 SECTION 9. Section 1602.257(a), Occupations Code, is  
2 amended to read as follows:

3 (a) A person holding a facialist specialty license may  
4 perform only the practice of cosmetology defined in Sections  
5 1602.002(a)(6) through (9) [~~Section 1602.002(7)~~].

6 SECTION 10. Section 1602.258, Occupations Code, is amended  
7 to read as follows:

8 Sec. 1602.258. ELIGIBILITY FOR A SPECIALTY  
9 CERTIFICATE. (a) A person holding a specialty certificate may  
10 perform only the practice of cosmetology defined in Sections  
11 1602.002(a)(2) through (4) [~~Section 1602.002(2), (3), (4), or (7)~~].

12 (b) To be eligible for a specialty certificate, an applicant  
13 must:

14 (1) be at least 17 years of age; and

15 (2) [~~have obtained a high school diploma or the~~  
16 ~~equivalent of a high school diploma or have passed a valid~~  
17 ~~examination administered by a certified testing agency that~~  
18 ~~measures the person's ability to benefit from training; and~~

19 [~~(3)~~] have the necessary requisites as determined by  
20 the department in the particular specialty for which certification  
21 is sought, including training through a commission-approved  
22 training program.

23 SECTION 11. Section 1602.262(a), Occupations Code, is  
24 amended to read as follows:

25 (a) An applicant for an operator license, instructor  
26 license, manicurist specialty license, or facialist specialty  
27 license is entitled to the license if the applicant:

1 (1) meets the applicable eligibility requirements;  
2 (2) passes the applicable examination;  
3 (3) pays the required fee; and  
4 (4) has not committed an act that constitutes a ground  
5 for denial of the license.

6 SECTION 12. Section 1602.303(b), Occupations Code, is  
7 amended to read as follows:

8 (b) An application for a private beauty culture school  
9 license must be accompanied by the required license fee and  
10 inspection fee and:

11 (1) be on a form prescribed by the department;  
12 (2) be verified by the applicant; and  
13 (3) ~~[contain a detailed floor plan of the school~~  
14 ~~building divided into two separate areas, one area for instruction~~  
15 ~~in theory and one area for clinic work, and~~

16 [~~4~~] contain a statement that the building:  
17 (A) ~~[is fireproof,~~  
18 [~~B~~] is of permanent construction and is divided  
19 into at least two separate areas:

20 (i) one area for instruction in theory; and  
21 (ii) one area for clinic work;

22 (B) [~~C~~] contains a minimum of 3,500 square feet  
23 of floor space;

24 (C) [~~D~~] has separate restrooms for male and  
25 female students; and

26 (D) [~~E~~] contains, or will contain before  
27 classes begin, the equipment established by commission rule as

1 sufficient to properly instruct a minimum of 50 students.

2 SECTION 13. Section 1602.354, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1602.354. CONTINUING EDUCATION. (a) The commission  
5 will by rule recognize, prepare, or administer continuing education  
6 programs for the practice of cosmetology. Participation in the  
7 programs is mandatory for all license renewals.

8 (b) The commission may only require a license holder to  
9 complete continuing education of not more than four hours in health  
10 and safety courses if the license holder:

11 (1) is at least 65 years of age; and

12 (2) has held a cosmetology license for at least 15  
13 years.

14 SECTION 14. Section 1602.403(a), Occupations Code, is  
15 amended to read as follows:

16 (a) A private beauty culture school may not employ:

17 (1) a person holding an operator license, manicurist  
18 specialty license, or specialty certificate solely to perform the  
19 practices of cosmetology for which the person is licensed or  
20 certified; or

21 (2) a person holding an instructor license to perform  
22 any act or practice of cosmetology.

23 SECTION 15. Section 1603.103, Occupations Code, is amended  
24 to read as follows:

25 Sec. 1603.103. INSPECTION OF SCHOOLS[, ~~SHOPS,~~ AND  
26 ~~FACILITIES~~] BEFORE OPERATION. (a) Until the department  
27 determines, by inspection, that the person has established the

1 school[, ~~shop, or facility~~] in compliance with this chapter,  
2 Chapter 1601, or Chapter 1602, a person may not operate a school[,  
3 ~~shop, or other facility~~] licensed or permitted under this chapter,  
4 Chapter 1601, or Chapter 1602.

5 (b) A school[, ~~shop, or other facility~~] that is not approved  
6 by the department on initial inspection may be reinspected.

7 (c) The department may charge the school[, ~~shop, or other~~  
8 ~~facility shall pay~~] a fee for each inspection. The commission shall  
9 by rule set the amount of the fee.

10 SECTION 16. Sections 1603.104(b) and (e), Occupations Code,  
11 are amended to read as follows:

12 (b) At least once every two years, the department shall  
13 inspect each [~~school,~~] shop[, ] or other facility that holds a  
14 license, certificate, or permit in which the practice of barbering  
15 or cosmetology is performed under this chapter, Chapter 1601, or  
16 Chapter 1602, and at least twice per year, the department shall  
17 inspect each school in which barbering or cosmetology is taught  
18 under this chapter, Chapter 1601, or Chapter 1602.

19 (e) The department may charge the school, shop, or other  
20 facility [~~shall pay~~] a fee for each inspection performed under  
21 Subsection (c). The commission shall by rule set the amount of the  
22 fee.

23 SECTION 17. Subchapter C, Chapter 1603, Occupations Code,  
24 is amended by adding Section 1603.1045 to read as follows:

25 Sec. 1603.1045. CONTRACT TO PERFORM INSPECTIONS. The  
26 department may contract with a person to perform for the department  
27 inspections of a school, shop, or other facility under this

chapter, Chapter 1601, or Chapter 1602.

SECTION 18. Subchapter E, Chapter 1603, Occupations Code, is amended by adding Sections 1603.205 and 1603.206 to read as follows:

Sec. 1603.205. DUAL BARBER AND BEAUTY SHOP LICENSE. (a) A person holding a dual barber and beauty shop license may own, operate, or manage a shop in which any practice of barbering defined by Section 1601.002(1) or cosmetology defined by Section 1602.002(a) is performed.

(b) An applicant for a dual barber and beauty shop license must submit:

(1) an application on a department-approved form that is verified by the applicant;

(2) proof that the applicant meets the applicable requirements under Chapters 1601 and 1602 for obtaining a barbershop permit and a beauty shop license; and

(3) the required license fee.

(c) The department shall issue a dual barber and beauty shop license to an applicant that:

(1) meets the requirements under this chapter and Chapters 1601 and 1602;

(2) complies with commission rules; and

(3) pays the required fees.

(d) The holder of a dual barber and beauty shop license must comply with this chapter, Chapters 1601 and 1602, and commission rules related to barbering and cosmetology.

Sec. 1603.206. MOBILE SHOPS. (a) In this section, "mobile



1 shop" means a facility that is readily movable and where barbering,  
2 cosmetology, or both are practiced other than at a fixed location.

3 (b) A barbershop, beauty shop, or specialty shop licensed or  
4 permitted under this chapter, Chapter 1601, or Chapter 1602 may be a  
5 mobile shop.

6 (c) The commission may adopt rules to administer this  
7 section, including rules providing for:

8 (1) the licensing or permitting of a mobile shop;

9 (2) the fees for a mobile shop;

10 (3) the operation of a mobile shop;

11 (4) reporting requirements for a mobile shop; and

12 (5) the inspection of a mobile shop.

13 SECTION 19. Section 1603.352, Occupations Code, is amended  
14 to read as follows:

15 Sec. 1603.352. STERILIZATION ~~[SANITATION]~~ REQUIREMENTS FOR  
16 CERTAIN SERVICES. (a) A person who holds a license, certificate,  
17 or permit issued under this chapter, Chapter 1601, or Chapter 1602  
18 and who performs a barbering service described by Section  
19 1601.002(1)(E) or (F) or a cosmetology service described by Section  
20 1602.002(a)(10) or (11) ~~[1602.002(10) or (11)]~~

21 ~~[+1]~~ shall, before performing the service, clean,  
22 disinfect, and sterilize with an autoclave or a dry heat,  
23 ultraviolet, or other department-approved sterilizer, in  
24 accordance with the sterilizer manufacturer's instructions, each  
25 metal ~~[nondisposable]~~ instrument, including metal nail clippers,  
26 cuticle pushers, cuticle nippers, and other metal instruments, used  
27 to perform the service ~~[+ and~~

1           ~~[(2) may use a disposable supply or instrument only if~~  
2 ~~that supply or instrument is purchased at the location where the~~  
3 ~~service is performed or provided by the person on whom the service~~  
4 ~~is performed]~~.

5           (b) The owner or manager of a barber shop, barber school,  
6 beauty shop, specialty shop, ~~[or]~~ beauty culture school, or other  
7 facility licensed under this chapter, Chapter 1601, or Chapter  
8 1602, is responsible for providing an autoclave or a dry heat,  
9 ultraviolet, or other department-approved sterilizer for use in the  
10 shop or school as required by Subsection (a). An autoclave or a dry  
11 heat, ultraviolet, or other department-approved sterilizer used as  
12 required by Subsection (a) must be~~+~~

13           ~~[(1) registered and]~~ listed with the United States  
14 ~~[federal]~~ Food and Drug Administration~~+, and~~

15           ~~[(2) used in accordance with the manufacturer's~~  
16 ~~instructions]~~.

17           (c) Each sterilized instrument must be stored in accordance  
18 with the manufacturer's instructions.

19           (d) This section does not apply to:

20               (1) single-use instruments; or

21               (2) nonmetal nail files, buffer blocks, pumice stones,  
22 nail brushes, or other similar instruments.

23           (e) The commission may adopt rules to administer this  
24 section.

25           SECTION 20. Subchapter J, Chapter 1603, Occupations Code,  
26 is amended by adding Sections 1603.455 and 1603.456 to read as  
27 follows:

1       Sec. 1603.455. EMERGENCY ORDERS. (a) The executive  
2 director may issue an emergency order to suspend or revoke a license  
3 or permit issued, or to cease the operation of an unsafe facility  
4 regulated, by the department under this title if the executive  
5 director determines that an emergency exists requiring immediate  
6 action to protect the public health and safety.

7       (b) The executive director may issue the emergency order  
8 with or without notice and hearing as the executive director  
9 considers practicable under the circumstances.

10       (c) If an emergency order is issued under this section  
11 without a hearing, the executive director, not later than the 10th  
12 day after the date the emergency order was issued, shall set the  
13 time and place for a hearing conducted by the State Office of  
14 Administrative Hearings to affirm, modify, or set aside the  
15 emergency order. The executive director shall set the hearing for a  
16 date not later than the 30th day after the date the time and place  
17 for the hearing are set. The hearing examiner shall affirm the  
18 order to the extent that reasonable cause existed to issue the  
19 order.

20       (d) The commission by rule may prescribe procedures for the  
21 issuance and appeal of an emergency order under this section,  
22 including a rule to allow the commission to affirm, modify, or set  
23 aside a decision by the State Office of Administrative Hearings  
24 under Subsection (c).

25       (e) A proceeding under this section is a contested case  
26 under Chapter 2001, Government Code.

27       Sec. 1603.456. CEASE AND DESIST ORDERS. The executive

1 director may issue a cease and desist order, after notice and  
2 opportunity for hearing, if the executive director determines that  
3 the order is necessary to prevent a violation of:

4 (1) this chapter, Chapter 1601, or Chapter 1602; or

5 (2) a rule adopted by the commission.

6 SECTION 21. Sections 1601.506, 1602.266(c), and 1602.408,  
7 Occupations Code, are repealed.

8 SECTION 22. (a) The Texas Department of Licensing and  
9 Regulation shall issue a hair braiding specialty certificate of  
10 registration under Section 1601.259, Occupations Code, as added by  
11 this Act, to an applicant qualified under this section who:

12 (1) applies for a certificate of registration under  
13 this section not later than October 1, 2007;

14 (2) has the experience required by this section; and

15 (3) pays the application fee.

16 (b) An applicant for a hair braiding specialty certificate  
17 of registration under this section is required to have practiced  
18 hair braiding in this state for at least 10 years before the  
19 regulation of hair braiding by Chapter 267, Acts of the 75th  
20 Legislature, Regular Session, 1997.

21 (c) This section expires on October 31, 2007.

22 SECTION 23. Not later than January 1, 2008, the Texas  
23 Commission of Licensing and Regulation shall adopt rules necessary  
24 to implement the changes in law made by this Act, including rules to  
25 administer:

26 (1) Sections 1601.258 and 1601.259, Occupations Code,  
27 as added by this Act, related to eligibility for hair weaving and

1 hair braiding specialty certificates;

2 (2) Section 1602.354, Occupations Code, as amended by  
3 this Act, related to continuing education and renewal requirements;

4 (3) Section 1603.205, Occupations Code, as added by  
5 this Act, related to dual barber and beauty shop licenses.

6 SECTION 24. The changes in law made by this Act apply only  
7 to an application for the issuance or renewal of a license, permit,  
8 or certificate that is filed with the Texas Department of Licensing  
9 and Regulation on or after the effective date of this Act. An  
10 application for the issuance or renewal of a license, permit, or  
11 certificate that is filed before the effective date of this Act is  
12 governed by the law in effect on the date the application was filed,  
13 and the former law is continued in effect for that purpose.

14 SECTION 25. Notwithstanding Section 1603.205, Occupations  
15 Code, as added by this Act, the Texas Department of Licensing and  
16 Regulation may not issue a license under that section before May 1,  
17 2008.

18 SECTION 26. This Act takes effect immediately if it  
19 receives a vote of two-thirds of all the members elected to each  
20 house, as provided by Section 39, Article III, Texas Constitution.  
21 If this Act does not receive the vote necessary for immediate  
22 effect, this Act takes effect September 1, 2007.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 17, 2007**

**TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce**

**FROM: John S. O'Brien, Director, Legislative Budget Board**

**IN RE: HB2106 by Chisum (Relating to the regulation of barbering and cosmetology. ), Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Occupations Code relating to the regulation of barbering and cosmetology. The bill would provide for the establishment of the hair weaving specialty certificate of registration, the hair braiding specialty certificate of registration, and establish a dual barber and beauty shop license. The bill would limit the continuing education requirements for cosmetology licensees age 65 and older with at least 15 years of licensure. The bill would give the Executive Director of TDLR the authority to issue an emergency order to suspend or revoke a license or permit issued to barbers, cosmetologists, and related occupations; and would allow the Executive Director of TDLR to issue a cease and desist order under certain circumstances.

Based on information provided by TDLR, it is assumed that costs related to the duties and responsibilities associated with implementing the provisions of the bill could be covered by utilizing existing resources.

The bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2007.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies: 452 Department of Licensing and Regulation**

**LBB Staff: JOB, JRO, AH**

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 10, 2007**

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB2106** by Chisum (Relating to the regulation of barbering and cosmetology.), As  
**Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Occupations Code relating to the regulation of barbering and cosmetology. The bill would provide for the establishment of the hair weaving specialty certificate of registration, the hair braiding specialty certificate of registration, and establish a dual barber and beauty shop license. The bill would limit the continuing education requirements for cosmetology licensees age 65 and older with at least 15 years of licensure. The bill would give the Executive Director of TDLR the authority to issue an emergency order to suspend or revoke a license or permit issued to barbers, cosmetologists, and related occupations; and allow the Executive Director of TDLR to issue a cease and desist order under certain circumstances.

Based on information provided by TDLR, it is assumed that costs related to the duties and responsibilities associated with implementing the provisions of the bill could be covered by utilizing existing resources.

The bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2007.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 452 Department of Licensing and Regulation

**LBB Staff:** JOB, JRO, AH

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**April 2, 2007**

**TO:** Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB2106** by Chisum (relating to the regulation of barbering and cosmetology. ), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Occupations Code relating to the regulation of barbering and cosmetology. The bill would provide for the establishment of the hair weaving specialty certificate of registration, the hair braiding specialty certificate of registration, and establish a dual barber and beauty shop license. The bill would limit the continuing education requirements for cosmetology licensees age 65 and older with at least 15 years of licensure. The bill would require the Department of Licensing and Regulation (TDLR) to verify each applicant for the cosmetologist examination has paid all tuition owed to the school. The bill would give the Executive Director of TDLR the authority to issue an emergency order to suspend or revoke a license or permit issued to barbers, cosmetologists, and related occupations; and allow the Executive Director of TDLR to issue a cease and desist order under certain circumstances.

Based on information provided by TDLR, it is assumed that costs related to the duties and responsibilities associated with implementing the provisions of the bill could be covered by utilizing existing resources.

The provisions providing for the eligibility of the specialty certificate and the eligibility for the cosmetologist examination would take effect April 1, 2008. The remaining provisions of the bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2007.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 452 Department of Licensing and Regulation

**LBB Staff:** JOB, JRO, AH



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 26, 2007**

**TO:** Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB2106** by Chisum (Relating to the regulation of barbering and cosmetology.), As  
**Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Occupations Code relating to the regulation of barbering and cosmetology. The bill would provide for the establishment of the hair weaving specialty certificate of registration, the hair braiding specialty certificate of registration, and establish a dual barber and beauty shop license.

Based on information provided by the Department of Licensing and Regulation, it is assumed that costs related to the duties and responsibilities associated with implementing the provisions of the bill could be covered by utilizing existing resources.

The provisions providing for the dual barber and beauty shop license would take effect May 1, 2008. The remaining provisions of the bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2007.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 452 Department of Licensing and Regulation

**LBB Staff:** JOB, JRO, AH

## ENROLLMENT

H.B. No. 2106

### AN ACT

relating to the regulation of barbering and cosmetology.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1601.002, Occupations Code, is amended to read as follows:

Sec. 1601.002. DEFINITION OF BARBERING. In this chapter, "barbering," "practicing barbering," or the "practice of barbering" means:

(1) performing or offering or attempting to perform for compensation or the promise of compensation any of the following services:

(A) treating a person's mustache or beard by arranging, beautifying, coloring, processing, shaving, styling, or trimming;

(B) treating a person's hair by:

(i) arranging, beautifying, bleaching, cleansing, coloring, curling, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, tinting, or waving;

(ii) providing a necessary service that is preparatory or ancillary to a service under Subparagraph (i), including bobbing, clipping, cutting, or trimming; or

(iii) cutting the person's hair as a separate and independent service for which a charge is directly or

1 indirectly made separately from a charge for any other service;

2 (C) cleansing, stimulating, or massaging a  
3 person's scalp, face, neck, arms, or shoulders:

4 (i) by hand or by using a device, apparatus,  
5 or appliance; and

6 (ii) with or without the use of any cosmetic  
7 preparation, antiseptic, tonic, lotion, or cream;

8 (D) beautifying a person's face, neck, arms, or  
9 shoulders using a cosmetic preparation, antiseptic, tonic, lotion,  
10 powder, oil, clay, cream, or appliance;

11 (E) treating a person's nails by:

12 (i) cutting, trimming, polishing, tinting,  
13 coloring, cleansing, manicuring, or pedicuring; or

14 (ii) attaching false nails;

15 (F) massaging, cleansing, treating, or  
16 beautifying a person's hands;

17 (G) administering facial treatments;

18 (H) weaving a person's hair by using any method  
19 to attach commercial hair to a person's hair or scalp;

20 (I) shampooing or conditioning a person's hair;

21 [~~or~~]

22 (J) servicing in any manner listed in Paragraph  
23 (B) a person's wig, toupee, or artificial hairpiece on a person's  
24 head or on a block after the initial retail sale; or

25 (K) braiding a person's hair, trimming hair  
26 extensions only as applicable to the braiding process, and  
27 attaching commercial hair only by braiding and without the use of

1 chemicals or adhesives;

2 (2) advertising or representing to the public in any  
3 manner that a person is a barber or is authorized to practice  
4 barbering; or

5 (3) advertising or representing to the public in any  
6 manner that a location or place of business is a barbershop,  
7 specialty shop, or barber school.

8 SECTION 2. Section 1601.253(b), Occupations Code, is  
9 amended to read as follows:

10 (b) The department shall issue a Class A barber certificate  
11 to an applicant who:

12 (1) complies with the application requirements of this  
13 chapter;

14 (2) passes the applicable examination [~~with an average~~  
15 ~~grade of at least 75 percent~~];

16 (3) pays the required fee; and

17 (4) possesses the other qualifications required by  
18 this chapter.

19 SECTION 3. Subchapter F, Chapter 1601, Occupations Code, is  
20 amended by adding Sections 1601.258 and 1601.259 to read as  
21 follows:

22 Sec. 1601.258. ELIGIBILITY FOR HAIR WEAVING SPECIALTY  
23 CERTIFICATE OF REGISTRATION. (a) A person holding a hair weaving  
24 specialty certificate of registration may perform only barbering as  
25 defined by Section 1601.002(1)(H).

26 (b) An applicant for a hair weaving specialty certificate of  
27 registration must:

1           (1) be at least 17 years of age; and

2           (2) satisfy the requirements specified by the  
3 department, including training through a commission-approved  
4 training program.

5           (c) The department shall issue a hair weaving specialty  
6 certificate of registration to an applicant who:

7           (1) possesses the qualifications described by  
8 Subsection (b);

9           (2) pays the required registration fee; and

10           (3) has not committed an act that constitutes a ground  
11 for denial of the certificate.

12           Sec. 1601.259. ELIGIBILITY FOR HAIR BRAIDING SPECIALTY  
13 CERTIFICATE OF REGISTRATION. (a) A person holding a hair braiding  
14 specialty certificate of registration may perform only barbering as  
15 defined by Section 1601.002(1)(K).

16           (b) An applicant for a hair braiding specialty certificate  
17 must:

18           (1) be at least 17 years of age; and

19           (2) satisfy the requirements specified by the  
20 department, including training through a commission-approved  
21 training program.

22           (c) The department shall issue a hair braiding specialty  
23 certificate of registration to an applicant who:

24           (1) possesses the qualifications described by  
25 Subsection (b);

26           (2) pays the required registration fee; and

27           (3) has not committed an act that constitutes a ground

1 for denial of the certificate.

2 SECTION 4. Section 1601.303, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1601.303. ISSUANCE OF BARBERSHOP PERMIT. The  
5 department shall issue a barbershop permit to an applicant if:

- 6 (1) the applicant owns the barbershop; ~~[and]~~  
7 (2) the applicant verifies the application; and  
8 (3) the shop meets the minimum health standards for  
9 barbershops set by the commission and complies with all other  
10 commission rules.

11 SECTION 5. Sections 1601.304 and 1601.305, Occupations  
12 Code, are amended to read as follows:

13 Sec. 1601.304. ~~[MANICURIST]~~ SPECIALTY SHOP PERMIT. (a) A  
14 person who holds a ~~[manicurist]~~ specialty shop permit may maintain  
15 an establishment in which only barbering as defined by Section  
16 ~~[Sections]~~ 1601.002(1)(E), ~~[and]~~ (F), (H), or (K) is performed. ~~[A~~  
17 ~~manicurist specialty shop may be operated only under the direction~~  
18 ~~of a person who holds a manicurist license.]~~

19 (b) An applicant for a ~~[manicurist]~~ specialty shop permit  
20 must submit:

- 21 (1) an application on a department-approved form ~~[that~~  
22 ~~includes:~~

- 23 ~~[(A) the shop's address,~~  
24 ~~[(B) the legal description of the premises for~~  
25 ~~which the permit is sought; and~~  
26 ~~[(C) any other information required by the~~  
27 ~~department]; and~~

(2) the required inspection fee.

~~[(c) As soon as practicable after receipt of the application and fee, the department shall issue a temporary manicurist specialty shop permit to the applicant. The applicant may operate the applicant's shop under the temporary permit until a permanent permit is issued.]~~

Sec. 1601.305. ISSUANCE OF ~~[MANICURIST]~~ SPECIALTY SHOP PERMIT. The department shall issue a ~~[permanent manicurist]~~ specialty shop permit to an applicant if:

(1) the applicant submits proof that the applicant satisfies the requirements established by the commission for a specialty shop ~~[holds a manicurist license]; [and]~~

(2) the applicant pays the required inspection fee and permit fee;

(3) the applicant verifies the application and the application complies with commission rules; and

(4) the applicant has not committed an act that constitutes a ground for denial of a permit, certificate, or license under this chapter ~~[the shop meets the minimum health standards for manicurist specialty shops set by the commission, as determined by a department inspection under Section 1603.103, and any other requirements imposed by commission rule].~~

SECTION 6. Section 1601.353(a), Occupations Code, is amended to read as follows:

(a) The department may not approve an application for a permit for a barber school that provides training leading to issuance of a Class A barber certificate unless the school has:

1           (1) a [~~an adequate school site housed in a~~  
2 ~~substantial~~] building of permanent construction containing at  
3 least 2,800 square feet of floor space, divided into at least:

4                   (A) a senior department;

5                   (B) a junior department;

6                   (C) a class theory room;

7                   (D) a supply room;

8                   (E) an office space; and

9                   (F) [~~a dressing and cloak room, and~~

10                   [~~(G) two sanitary, modern,~~] separate restrooms  
11 for male and female students [~~, each equipped with one commode and~~  
12 ~~one of which is also equipped with a urinal~~];

13           (2) a hard-surface floor-covering of tile or other  
14 suitable material;

15           (3) at least 20 modern barber chairs, including a  
16 cabinet and mirror for each chair;

17                   (4) a sink [~~lavatory~~] behind every two barber chairs;

18                   (5) a liquid sterilizer for each barber chair;

19                   (6) an adequate number of latherers, vibrators, and  
20 hair dryers for student use;

21                   (7) adequate lighting for each room;

22                   (8) at least 20 classroom chairs, a blackboard,  
23 anatomical charts of the head, neck, and face, and one barber chair  
24 in the class theory room;

25                   (9) [~~a library with library facilities available to~~  
26 ~~students containing~~] at least one medical dictionary and a standard  
27 work on human anatomy;



(10) adequate drinking fountain facilities, with at least one for each floor; and

(11) at least one fire extinguisher [~~adequate toilet facilities for the students, and~~

~~(12) adequate fire-fighting equipment~~].

SECTION 7. Section 1601.453, Occupations Code, is amended to read as follows:

Sec. 1601.453. LOCATION OF PRACTICE. A person licensed by the department may practice barbering only at a location for which the department has issued a barbershop permit, specialty shop permit, or barber school permit under this chapter or a permit issued under Chapter 1603.

SECTION 8. Section 1602.256, Occupations Code, is amended to read as follows:

Sec. 1602.256. ELIGIBILITY FOR A MANICURIST SPECIALTY LICENSE. (a) A person holding a manicurist specialty license may perform only the practice of cosmetology defined in Section 1602.002(a)(10) or (11) [~~1602.002(9) or (10)~~].

(b) To be eligible for a manicurist specialty license, an applicant must:

(1) be at least 17 years of age;

(2) have obtained a high school diploma or the equivalent of a high school diploma or have passed a valid examination administered by a certified testing agency that measures the person's ability to benefit from training; and

(3) have completed 600 hours of instruction in manicuring through a commission-approved training program.

SECTION 9. Section 1602.257(a), Occupations Code, is amended to read as follows:

(a) A person holding a facialist specialty license may perform only the practice of cosmetology defined in Sections 1602.002(a)(6) through (9) [~~Section 1602.002(7)~~].

SECTION 10. Section 1602.258, Occupations Code, is amended to read as follows:

Sec. 1602.258. ELIGIBILITY FOR A SPECIALTY CERTIFICATE. (a) A person holding a specialty certificate may perform only the practice of cosmetology defined in Sections 1602.002(a)(2) through (4) [~~Section 1602.002(2), (3), (4), or (7)~~].

(b) To be eligible for a specialty certificate, an applicant must:

(1) be at least 17 years of age; and

(2) [~~have obtained a high school diploma or the equivalent of a high school diploma or have passed a valid examination administered by a certified testing agency that measures the person's ability to benefit from training; and~~

~~[(3)]~~ have the necessary requisites as determined by the department in the particular specialty for which certification is sought, including training through a commission-approved training program.

SECTION 11. Section 1602.262(a), Occupations Code, is amended to read as follows:

(a) An applicant for an operator license, instructor license, manicurist specialty license, or facialist specialty license is entitled to the license if the applicant:

- (1) meets the applicable eligibility requirements;
- (2) passes the applicable examination;
- (3) pays the required fee; and
- (4) has not committed an act that constitutes a ground for denial of the license.

SECTION 12. Section 1602.303(b), Occupations Code, is amended to read as follows:

(b) An application for a private beauty culture school license must be accompanied by the required license fee and inspection fee and:

- (1) be on a form prescribed by the department;
- (2) be verified by the applicant; and
- (3) ~~[contain a detailed floor plan of the school building divided into two separate areas, one area for instruction in theory and one area for clinic work, and~~

~~[(4)]~~ contain a statement that the building:

- (A) ~~[is fireproof,~~
- ~~[(B)]~~ is of permanent construction and is divided into at least two separate areas:

- (i) one area for instruction in theory; and
- (ii) one area for clinic work;
- (B) ~~[(C)]~~ contains a minimum of 3,500 square feet of floor space;
- (C) ~~[(D)]~~ has separate restrooms for male and female students; and
- (D) ~~[(E)]~~ contains, or will contain before classes begin, the equipment established by commission rule as

1 sufficient to properly instruct a minimum of 50 students.

2 SECTION 13. Section 1602.354, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1602.354. CONTINUING EDUCATION. (a) The commission  
5 will by rule recognize, prepare, or administer continuing education  
6 programs for the practice of cosmetology. Participation in the  
7 programs is mandatory for all license renewals.

8 (b) The commission may only require a license holder to  
9 complete continuing education of not more than four hours in health  
10 and safety courses if the license holder:

11 (1) is at least 65 years of age; and

12 (2) has held a cosmetology license for at least 15  
13 years.

14 SECTION 14. Section 1602.403(a), Occupations Code, is  
15 amended to read as follows:

16 (a) A private beauty culture school may not employ:

17 (1) a person holding an operator license, manicurist  
18 specialty license, or specialty certificate solely to perform the  
19 practices of cosmetology for which the person is licensed or  
20 certified; or

21 (2) a person holding an instructor license to perform  
22 any act or practice of cosmetology.

23 SECTION 15. Section 1603.103, Occupations Code, is amended  
24 to read as follows:

25 Sec. 1603.103. INSPECTION OF SCHOOLS[, ~~SHOPS,~~ ~~AND~~  
26 ~~FACILITIES~~] BEFORE OPERATION. (a) Until the department  
27 determines, by inspection, that the person has established the

1 school[, ~~shop, or facility~~] in compliance with this chapter,  
2 Chapter 1601, or Chapter 1602, a person may not operate a school[, ~~shop,~~  
3 ~~or other facility~~] licensed or permitted under this chapter,  
4 Chapter 1601, or Chapter 1602.

5 (b) A school[, ~~shop, or other facility~~] that is not approved  
6 by the department on initial inspection may be reinspected.

7 (c) The department may charge the school[, ~~shop, or other~~  
8 facility shall pay] a fee for each inspection. The commission shall  
9 by rule set the amount of the fee.

10 SECTION 16. Sections 1603.104(b) and (e), Occupations Code,  
11 are amended to read as follows:

12 (b) At least once every two years, the department shall  
13 inspect each [~~school,~~] shop[, ~~or other facility~~] that holds a  
14 license, certificate, or permit in which the practice of barbering  
15 or cosmetology is performed under this chapter, Chapter 1601, or  
16 Chapter 1602, and at least twice per year, the department shall  
17 inspect each school in which barbering or cosmetology is taught  
18 under this chapter, Chapter 1601, or Chapter 1602.

19 (e) The department may charge the school, shop, or other  
20 facility [shall pay] a fee for each inspection performed under  
21 Subsection (c). The commission shall by rule set the amount of the  
22 fee.

23 SECTION 17. Subchapter C, Chapter 1603, Occupations Code,  
24 is amended by adding Section 1603.1045 to read as follows:

25 Sec. 1603.1045. CONTRACT TO PERFORM INSPECTIONS. The  
26 department may contract with a person to perform for the department  
27 inspections of a school, shop, or other facility under this

1 chapter, Chapter 1601, or Chapter 1602.

2 SECTION 18. Subchapter E, Chapter 1603, Occupations Code,  
3 is amended by adding Sections 1603.205 and 1603.206 to read as  
4 follows:

5 Sec. 1603.205. DUAL BARBER AND BEAUTY SHOP LICENSE. (a) A  
6 person holding a dual barber and beauty shop license may own,  
7 operate, or manage a shop in which any practice of barbering defined  
8 by Section 1601.002(1) or cosmetology defined by Section  
9 1602.002(a) is performed.

10 (b) An applicant for a dual barber and beauty shop license  
11 must submit:

12 (1) an application on a department-approved form that  
13 is verified by the applicant;

14 (2) proof that the applicant meets the applicable  
15 requirements under Chapters 1601 and 1602 for obtaining a  
16 barbershop permit and a beauty shop license; and

17 (3) the required license fee.

18 (c) The department shall issue a dual barber and beauty shop  
19 license to an applicant that:

20 (1) meets the requirements under this chapter and  
21 Chapters 1601 and 1602;

22 (2) complies with commission rules; and

23 (3) pays the required fees.

24 (d) The holder of a dual barber and beauty shop license must  
25 comply with this chapter, Chapters 1601 and 1602, and commission  
26 rules related to barbering and cosmetology.

27 Sec. 1603.206. MOBILE SHOPS. (a) In this section, "mobile

1 shop" means a facility that is readily movable and where barbering,  
2 cosmetology, or both are practiced other than at a fixed location.

3 (b) A barbershop, beauty shop, or specialty shop licensed or  
4 permitted under this chapter, Chapter 1601, or Chapter 1602 may be a  
5 mobile shop.

6 (c) The commission may adopt rules to administer this  
7 section, including rules providing for:

- 8 (1) the licensing or permitting of a mobile shop;  
9 (2) the fees for a mobile shop;  
10 (3) the operation of a mobile shop;  
11 (4) reporting requirements for a mobile shop; and  
12 (5) the inspection of a mobile shop.

13 SECTION 19. Section 1603.352, Occupations Code, is amended  
14 to read as follows:

15 Sec. 1603.352. STERILIZATION ~~[SANITATION]~~ REQUIREMENTS FOR  
16 CERTAIN SERVICES. (a) A person who holds a license, certificate,  
17 or permit issued under this chapter, Chapter 1601, or Chapter 1602  
18 and who performs a barbering service described by Section  
19 1601.002(1)(E) or (F) or a cosmetology service described by Section  
20 1602.002(a)(10) or (11) ~~[1602.002(10) or (11)]~~.

21 ~~[(1)]~~ shall, before performing the service, clean,  
22 disinfect, and sterilize with an autoclave or a dry heat,  
23 ultraviolet, or other department-approved sterilizer, in  
24 accordance with the sterilizer manufacturer's instructions, each  
25 metal ~~[nondisposable]~~ instrument, including metal nail clippers,  
26 cuticle pushers, cuticle nippers, and other metal instruments, used  
27 to perform the service ~~[, and~~

1           ~~[(2) may use a disposable supply or instrument only if~~  
2 ~~that supply or instrument is purchased at the location where the~~  
3 ~~service is performed or provided by the person on whom the service~~  
4 ~~is performed].~~

5           (b) The owner or manager of a barber shop, barber school,  
6 beauty shop, specialty shop, ~~[or]~~ beauty culture school, or other  
7 facility licensed under this chapter, Chapter 1601, or Chapter  
8 1602, is responsible for providing an autoclave or a dry heat,  
9 ultraviolet, or other department-approved sterilizer for use in the  
10 shop or school as required by Subsection (a). An autoclave or a dry  
11 heat, ultraviolet, or other department-approved sterilizer used as  
12 required by Subsection (a) must be~~+~~

13           ~~[(1) registered and]~~ listed with the United States  
14 ~~[federal]~~ Food and Drug Administration~~+, and~~

15           ~~[(2) used in accordance with the manufacturer's~~  
16 ~~instructions].~~

17           (c) Each sterilized instrument must be stored in accordance  
18 with the manufacturer's instructions.

19           (d) This section does not apply to:

20                   (1) single-use instruments; or

21                   (2) nonmetal nail files, buffer blocks, pumice stones,  
22 nail brushes, or other similar instruments.

23           (e) The commission may adopt rules to administer this  
24 section.

25           SECTION 20. Subchapter J, Chapter 1603, Occupations Code,  
26 is amended by adding Sections 1603.455 and 1603.456 to read as  
27 follows:



1       Sec. 1603.455. EMERGENCY ORDERS. (a) The executive  
2 director may issue an emergency order to suspend or revoke a license  
3 or permit issued, or to cease the operation of an unsafe facility  
4 regulated, by the department under this title if the executive  
5 director determines that an emergency exists requiring immediate  
6 action to protect the public health and safety.

7       (b) The executive director may issue the emergency order  
8 with or without notice and hearing as the executive director  
9 considers practicable under the circumstances.

10       (c) If an emergency order is issued under this section  
11 without a hearing, the executive director, not later than the 10th  
12 day after the date the emergency order was issued, shall set the  
13 time and place for a hearing conducted by the State Office of  
14 Administrative Hearings to affirm, modify, or set aside the  
15 emergency order. The executive director shall set the hearing for a  
16 date not later than the 30th day after the date the time and place  
17 for the hearing are set. The hearing examiner shall affirm the  
18 order to the extent that reasonable cause existed to issue the  
19 order.

20       (d) The commission by rule may prescribe procedures for the  
21 issuance and appeal of an emergency order under this section,  
22 including a rule to allow the commission to affirm, modify, or set  
23 aside a decision by the State Office of Administrative Hearings  
24 under Subsection (c).

25       (e) A proceeding under this section is a contested case  
26 under Chapter 2001, Government Code.

27       Sec. 1603.456. CEASE AND DESIST ORDERS. The executive

1 director may issue a cease and desist order, after notice and  
2 opportunity for hearing, if the executive director determines that  
3 the order is necessary to prevent a violation of:

4 (1) this chapter, Chapter 1601, or Chapter 1602; or

5 (2) a rule adopted by the commission.

6 SECTION 21. Sections 1601.506, 1602.266(c), and 1602.408,  
7 Occupations Code, are repealed.

8 SECTION 22. (a) The Texas Department of Licensing and  
9 Regulation shall issue a hair braiding specialty certificate of  
10 registration under Section 1601.259, Occupations Code, as added by  
11 this Act, to an applicant qualified under this section who:

12 (1) applies for a certificate of registration under  
13 this section not later than October 1, 2007;

14 (2) has the experience required by this section; and

15 (3) pays the application fee.

16 (b) An applicant for a hair braiding specialty certificate  
17 of registration under this section is required to have practiced  
18 hair braiding in this state for at least 10 years before the  
19 regulation of hair braiding by Chapter 267, Acts of the 75th  
20 Legislature, Regular Session, 1997.

21 (c) This section expires on October 31, 2007.

22 SECTION 23. Not later than January 1, 2008, the Texas  
23 Commission of Licensing and Regulation shall adopt rules necessary  
24 to implement the changes in law made by this Act, including rules to  
25 administer:

26 (1) Sections 1601.258 and 1601.259, Occupations Code,  
27 as added by this Act, related to eligibility for hair weaving and

1 hair braiding specialty certificates;

2 (2) Section 1602.354, Occupations Code, as amended by  
3 this Act, related to continuing education and renewal requirements;

4 (3) Section 1603.205, Occupations Code, as added by  
5 this Act, related to dual barber and beauty shop licenses.

6 SECTION 24. The changes in law made by this Act apply only  
7 to an application for the issuance or renewal of a license, permit,  
8 or certificate that is filed with the Texas Department of Licensing  
9 and Regulation on or after the effective date of this Act. An  
10 application for the issuance or renewal of a license, permit, or  
11 certificate that is filed before the effective date of this Act is  
12 governed by the law in effect on the date the application was filed,  
13 and the former law is continued in effect for that purpose.

14 SECTION 25. Notwithstanding Section 1603.205, Occupations  
15 Code, as added by this Act, the Texas Department of Licensing and  
16 Regulation may not issue a license under that section before May 1,  
17 2008.

18 SECTION 26. This Act takes effect immediately if it  
19 receives a vote of two-thirds of all the members elected to each  
20 house, as provided by Section 39, Article III, Texas Constitution.  
21 If this Act does not receive the vote necessary for immediate  
22 effect, this Act takes effect September 1, 2007.

H.B. No. 2106

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President of the Senate

---

Speaker of the House

I certify that H.B. No. 2106 was passed by the House on May 4, 2007, by the following vote: Yeas 143, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2106 on May 25, 2007, by the following vote: Yeas 139, Nays 0, 1 present, not voting.

---

Chief Clerk of the House

I certify that H.B. No. 2106 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 31, Nays 0.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 2106 was passed by the House on  
(1)

May 4, 2007, by the following vote:  
(2)

Yeas 143, Nays 1, 1 present, not voting;  
(3) (4)

and that the House concurred in Senate amendments to H.B. No. 2106  
on May 25, 2007, by the following vote:  
(5)

Yeas 139, Nays 0, 1 present, not voting.  
(6) (7)

\_\_\_\_\_  
Chief Clerk of the House

\*\*\*\* Preparation: CT31

I certify that H.B. No. 2106 was passed by the Senate, with  
(1)

amendments, on May 23, 2007, by the  
(2)

following vote: Yeas 31, Nays 0.  
(3) (4)

\_\_\_\_\_  
Secretary of the Senate

APPROVED:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

\*\*\*\* Preparation: CT32

for chief clerk use only

Bill or Resolution Number: HB 2106

### JOINT AUTHOR AUTHORIZATION

As primary author of HB 2106 I hereby authorize the following joint author(s):  
(bill or resolution #)

Joseph Deshotel  
printed name of joint author #1

Joseph Deshotel  
signature of joint author #1

3-27-07

Hopsan  
printed name of joint author #2

CH Hopsan  
signature of joint author #2

3/27/07

KINDA-HARPER-BROWN  
printed name of joint author #3

Kinda Harper Brown  
signature of joint author #3

5-3-07

David Farabee  
printed name of joint author #4

David Farabee  
signature of joint author #4

5-3-07

Warren Brown  
signature of primary author

3/23/2007  
date

H.B. No. 2106

By Warren Chisum

A BILL TO BE ENTITLED  
AN ACT

relating to the regulation of barbering and cosmetology.

**FEB 27 2007**

Filed with the Chief Clerk

**MAR 06 2007**

Read first time and referred to Committee on Licensing & Administrative Procedures

**MAR 27 2007**

Reported favorably (~~as amended~~)  
(as substituted)

**APR 20 2007**

Sent to Committee on (Calendars)  
(~~Consent Calendars~~)

**MAY 03 2007**

Read second time (comm. subst.) (amended); passed to third reading (~~failed~~) by a (non-record vote)  
(~~yeas, nays, present, not voting~~)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)  
by a vote of        yeas,        nays,        present, not voting

**MAY 04 2007**

Read third time (~~amended~~); finally passed (~~failed~~) by a (~~non-record vote~~)  
(record vote of 143 yeas, 1 nays, 1 present, not voting)

**MAY 04 2007**

Engrossed

**MAY -7 2007**

Sent to Senate

Robert Haney  
CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

**MAY 07 2007**

Received from the House

**BUSINESS AND  
COMMERCE**

**MAY 08 2007**

Read and referred to Committee on       

Reported favorably       

**MAY 18 2007**

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

**MAY 23 2007**

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by        yeas,        nays)

**MAY 23 2007**

Read second time,       , and passed to third reading by (unanimous consent)  
(a viva voce vote)  
(       yeas,        nays)

**MAY 23 2007**

Senate and Constitutional 3 Day Rules suspended by a vote of 31 yeas, 0 nays

**MAY 23 2007**

Read third time,       , and passed by a (viva voce vote)  
(31 yeas, 0 nays)

Returned to the House

Patsy Spaw  
SECRETARY OF THE SENATE

OTHER SENATE ACTION:

MAY 23 2007

Returned from the Senate (as substituted)  
~~(with amendments)~~

MAY 25 2007

House concurred in Senate amendments by a ~~(record vote of 134 yeas, 0 nays, 1 present, not voting)~~

House refused to concur in Senate amendments and requested the appointment of a conference committee by a (non-record vote) (record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

House conferees appointed: \_\_\_\_\_, Chair; \_\_\_\_\_,

Senate granted House request. Senate conferees appointed: \_\_\_\_\_, Chair; \_\_\_\_\_,

Conference committee report adopted (rejected) by the House by a (non-record vote) (record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

Conference committee report adopted (rejected) by the Senate by a (viva voce vote) (record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays)

07 MAY 23 PH 8:04

HOUSE OF REPRESENTATIVES

07 APR 19 PH 11:56

HOUSE OF REPRESENTATIVES